

Chapter 1

GRANT MANAGEMENT

A. SUB-GRANTEE PERSONNEL NEEDS

Prior to assigning or hiring personnel or contracting for specialized assistance, the chief elected official and/or another appropriate employee of the sub-grantee should thoroughly review this manual. This will help to identify the tasks involved and determine the skills that are necessary to effectively administer the project and ensure compliance with applicable laws and regulations. It is NCDEM's recommendation, due to the nature of the program, that professional personnel (e.g. accountants, lawyers, engineers, and grant managers) be consulted.

It is important that the sub-grantee's elected officials and chief administrator maintain direct involvement in all facets of grant and project management since the sub-grantee is contractually responsible for the success of the project and for compliance with grant requirements. The Designated Agent should also work with his/her NCDEM Point of Contact to arrange for an implementation meeting.

1. Administrative/Management Services

An appropriate individual, either on the sub-grantee's staff or consulting firm, should be assigned as a grant administrator with lead responsibility for overall grant administration. His or her responsibility is to coordinate and direct all grant activities. This person should report directly to the governing body or chief elected official. This person should ensure that a project is successfully completed. The grant administrator also monitors the program budget and promptly alerts proper authorities when problems arise via the Progress Reporting mechanism. This individual is also responsible for maintaining the project files in the offices of the local unit of government and advising the sub-grantee on the means to implement the project pursuant to local, state and federal requirements. These items will be checked for compliance as part as closeout activities.

2. Financial Management

Requirements for Financial Management include accounting and controlling of grant funds to easily and accurately identify project costs and cash balances and to be able to support such costs. It also means that the sub-grantee must have sufficient internal controls to safeguard public funds against fraud, waste, and mismanagement.

The sub-grantee's existing systems, where possible, should be used to account for and control grant funds. If there are existing personnel and systems sufficient to meet the requirements outlined in this Manual, no additional staffing may be necessary. If the review of this Manual and

existing systems indicate any weakness in the sub-grantee's financial management system, additional staff or training for existing staff may be necessary.

3. Compliance Responsibility

Because mitigation is a federally funded program, it is subject to a number of federal laws, directives and regulations between them.

HMGP is established under the authority of Public Law 93-288 as amended by PL 100-707, Robert T. Stafford Disaster Relief Act. Additional authorities and references incorporated or recognized are as follows:

- FEMA Regulations 44 Code of Federal Regulations (CFR) parts 206,
- subparts M and N,
- FEMA Regulations 44 CFR part 13,
- FEMA Regulations 44 CFR part 14,
- Executive Order 11988, Floodplain Management,
- Executive Order 11990, Protection of Wetlands,
- Executive Order 12612, Federalism,
- Executive Order 12898, Environmental Justices in Minority Populations and Low-income Populations,
- Single Audit Act of 1984,
- Freedom of Information Act,
- Statements of North Carolina Division of Emergency Management Policy Per Memorandum and Letters of Correspondence,
- Office of Management and Budget (OMB) A-87
- 49 CFR Part 24 (VRA)
- Statutory Provisions Controlling Purchasing by local Government in North Carolina,
- DMA 2K, Senate Bill 300, 44 CFR Part 11, Other State and Federal Regulations

4. Professional Design and/or Other Technical Services

Most mitigation projects involve construction of some type. Therefore, each requires some level of design, i.e., development of plans and specifications. In most cases, this will necessitate hiring a professional engineer or housing rehabilitation specialist unless the sub-grantee has the required staff expertise and time to provide such services.

Other technical services commonly needed (depending on project activities) include specialized HMGP grants management assistance, real estate appraisals, legal review, income verification, fiscal oversight and site investigation.

B. SUB-GRANTEE PROJECT FILES

Once the skills required to effectively administer the grant have been determined and the necessary staffing needs identified, the sub-grantee should establish a system of files for the HMGP Grant. Records **MUST** be on file at the sub-grantee's offices to demonstrate compliance with all grant requirements. Records must be maintained for a minimum of three (3) years after Final Closeout or for a period required by any other applicable laws and regulations.

C. GRANT PROCUREMENT POLICIES

It is NCEM's objective to promote open and free competition when making any procurement of goods and services with grants funds. In order to attain this goal, compliance 44 CFR Part 13 and 14 are required as should be stated in a letter indicating compliance of this provision.

D. REQUESTING FUNDS FROM NCEM

Grant funds will be made available once the Grant Agreement has been signed by the appropriate grantee and sub-grantee representative's.

Only individuals duly certified by the sub-grantee as authorized to draw funds will be allowed to sign HMGP Grant Requisitions. Likewise, payments will be sent only to the address certified by the sub-grantee. All HMGP payment requests will be checked against the certified signatures, payee and address.

E. PROGRAM BUDGET AND BUDGET REVISIONS

1. Program Budget. During the course of project implementation the program budget is the guide which must be followed in all obligations or outlays of grant funds. Sub-grantees should not deviate from the approved program budget without prior consultation with NCEM.

Due to this restriction, it is essential that the sub-grantee develop accounting and grant management procedures which maintain tight control over obligations and expenditures to assure conformance with the program budget. The program budget should be consulted and tracked on a continual basis.

NCEM will utilize the sub-grantee's program budget as a basis for monitoring project implementation and assessing the sub-grantee's progress. Adherence to the program budget will be assessed during compliance reviews and audits.

Failure to adhere to the program budget is a violation of the Grant Contract and could result in a requirement for repayment of

unauthorized expenses from the sub-grantee's own financial resources.

2. Program Amendments. During the course of the project, revisions to the program budget may be necessitated by unforeseen factors. Amendments are required for the following:
 - a. Budget revisions which change an approved activity by more than 10% of the total project budget;
 - b. Budget revisions in more than one activity which total more than 10% of the total project budget;
 - c. The addition or deletion of an approved activity;
 - d. A change in the location of activities;
 - e. A change in the project area boundaries;
 - f. A change in the scope of the project.

[SP: Time extensions? Also note that the FEMA template should be used.]

Under a Program Amendment, fund transfers **MUST NOT** significantly affect either the scope or objectives of the project. Scope of the project means the nature, location, or magnitude of the work described in the Grant Proposal. "Objective" means the measurable performance the project is proposed to achieve, and the impact and degree of benefit to the identified population and environment that the project is proposed to provide.

In order to secure an approved Program Amendment the Sub-grantee must submit the following items to the Mitigation Section Chief prior to any obligation of funds related to the amendment.

1. A draft Program Amendment Proposal;
2. A finalized proposal that includes documentation of at least 1 public hearing held to discuss the proposed Amendment.

The final proposal must include the following:

- a. A letter of transmittal from the Designated Agent which describes why the amendment is necessary, describes the proposed changes and their effect on the project, and certifies that the sub-grantee's governing body conducted a public hearing on the proposed amendment;

- b. An Application Summary form executed by the Designated Agent which shows the date of the original application and the date of amendment;
- c. A revised project description, project budget, project benefit, project schedule form, and project maps if changed (1 copy); and
- d. The results of the update to the environmental review record. The State HMGP environmental review team will assist in this effort if necessary.

The request for a Program Amendment MUST be submitted and approved in writing by NCEM's Mitigation Section Chief prior to any obligation or expenditure of funds by the sub-grantee which exceeds the minimum allowable transfer of 10 percent of the total project budget.

Chapter 2

FINANCIAL MANAGEMENT

It is North Carolina Emergency Management's policy that grants be implemented in a cost-effective manner with appropriate financial controls in place to minimize waste and prevent fraud. Financial records shall be established with sufficient detail to reasonably document the expenditure of mitigation funds.

A. FINANCIAL MANAGEMENT REQUIREMENTS

1. Financial management systems for mitigation funds must provide for:
 - a. Accurate, current, and complete reporting of the use of all grant funds in accordance with state and federal accounting and reporting requirements;
 - b. Records that identify the source and application of funds for all grant supported activities. These records contain information pertaining to awards and authorizations, obligations, and obligated balances, assets, liabilities, outlays, and income;
 - c. Demonstratable and effective control over and accountability for all funds, property, and other assets;
 - d. Comparison of actual outlays with the approved grant budget;
 - e. Procedures to minimize the time elapsing between the transfer of funds from the North Carolina Division of Emergency Management and the disbursement by the Subgrantee;
 - f. Accounting records supported by source documentation;
 - g. Examinations in the form of audits;
 - h. A systematic method to assure the timely and appropriate resolution of audit findings and recommendations;
 - i. Use of Fidelity Bonds (a form of insurance in which a bonding company agrees to reimburse an employer, within policy limits, for losses attributable to theft or embezzlement by bonded employees). NCEM strongly recommends that all employees with direct access to grant funds be bonded for an amount equal to the largest anticipated drawdown;

- j. Accounting records and source documentation must keep mitigation funds separate from other accounts;
- k. Other funding sources must not be co-mingled with mitigation funds utilized in the project (e.g., Community Development Block Grant, State Acquisition & Relocation Funding, EPA, and FHA);
- l. All non-mitigation funds utilized as a local commitment must be clearly and separately accounted for with source documents and accounting records;
- m. All grant expenditures must be in adherence with a NCEM approved budget.

B. ELEMENTS OF FINANCIAL MANAGEMENT SYSTEMS

1. Internal Control

Financial Management Plans are necessary to safeguard assets, promote efficiency of operations, and prevent waste, fraud, and mismanagement. Effective internal control **MUST** include the following procedures

- a. The segregation of duties among employees to prevent one person from having complete control over all phases of any transaction. Two persons must approve payment of invoices by signature;
- b. The workflow procedures for processing all transactions from one employee to another. This provides for a cross-check of work, but not a duplication of effort;
- c. The rotation of duties among employees to allow for control over any one given phase and ensure that other employees can fill in when a position becomes vacant;
- d. The procedure used should be clearly detailed and documented for all individuals to follow and aid in training new employees; and
- e. All assets, records, and checks **MUST** be properly protected through the use of locks, safes, and other measures to ensure security.

2. Accounting

All North Carolina localities are required to comply with Generally Accepted Accounting Principals (GAAP) which mandate that government

resources shall be organized and accounted for on a fund basis. Established principles for fund accounting shall be followed when accounting for the Grant.

Subgrantees are encouraged to use a Special Revenue fund to account for the Grant. All revenues and expenditures and general ledger transactions should be recorded in this fund. This would include grant revenue, local contribution, project revenue, administrative expenditure, as well as project expenditure and would require a complete set of accounts to record these transactions.

3. Documentation

In addition to establishing a system of accounting to accurately record and report transactions, adequate source documentation MUST be maintained as support for these transactions. Source documents include

- (a) Purchase Requisitions;
- (b) Purchase Orders;
- (c) Contracts;
- (d) Contract Invoices;
- (e) Payment Vouchers;
- (f) Employee Time Sheets;
- (g) Travel Advance Requests;
- (h) Travel Reimbursement Vouchers;
- (i) Vendor Invoices;
- (j) Journal Voucher Entries; and
- (k) Cash Receipts.

All source documents must be coded by a reference number so that a clear trail exists between the books and these documents. Coding could include the check number used to make the payment, the journal entry in which a transaction was recorded or the page number from the cash receipt journal.

Purchase order numbers and payment voucher numbers may also be used to provide the necessary audit trail. All source documents must also be coded, signed or initialed, and dated.

Supporting documents can be copies, carbons, or originals, but must be sufficient in detail to support the transaction and to justify it as a grant expense.

4. Basis of Accounting

We recommend that localities use a modified accrual basis of accounting. The modified accrual basis of accounting requires that transactions be recorded when they occur, regardless of when the cash is received or disbursed.

5. Budgets

All grant recipients are required to adhere to an approved budget. All obligation or use of funds not in accordance with the approved budget may be disallowed for grant assistance, thus requiring payment from the locality's general funds. Comparison of actual expenditures to the budget should be done on a regular basis as part of a sound financial management system. Expenditures and encumbrances should be posted in such a manner as to reflect the unencumbered balance available for expenditure. Budget revisions must be recorded on the subsidiary ledger to provide continuing budget control.

6. Records Retention

The sub-grantee MUST maintain all financial records and any other records pertinent to the grant for a minimum of three years from the date of the grant's final closeout letter from NCEM, unless:

- a. Any litigation or unresolved audit is started prior to the end of the three year period; in which case, all records shall then be retained until completion of all audits or resolution of any litigation; or
- b. Any disposition of nonexpendable property occurs; in which case, records for any nonexpendable property must be retained for three years after its final disposition.

7. Cash Management

Procedures must be implemented that will ensure timely receipt and disbursement of advanced funds. It is important when requesting funds to remember:

- a. Funds MUST be requested to meet only immediate (short term) needs;
- b. Program income must be considered as available cash and MUST be expended prior to requesting funds or the request must be reduced by the amount of income on hand

- c. Interest earned over \$100 per year on any grant funds held by the recipient must be returned to NCEM

HMGP funds must be disbursed within three (3) banking days of the time of the local government's receipt of them. Recipients need to consider carefully the processing time if they plan to project the need for HMGP funds and to draw down funds based on these projections.

If cash flow is not a critical consideration, some localities may wish to operate on a reimbursement basis. Requests for payment may be submitted as often as necessary to meet needs of the locality.

C. ADMINISTRATIVE COSTS

1. General

Subgrantees are responsible for administering the grant in an efficient and effective manner in compliance with all applicable regulations and statutes. To this end, reasonable costs directly related to the administration of the project are allowed to be budgeted and charged to the grant.

General rules governing the use of the funds for administrative costs are:

- a. All administrative costs must be in conformance with OMB Circular A-87 Cost Principles for State and Local Governments, Attachment A – Principles for Determining Costs Applicable to Grants and Contracts with State, local and Federally Recognized Indian Tribal Governments
- b. Use of a private corporation, consultant or non-profit agency for assistance in the general administration of the grant is allowable under the following conditions:
 - (1) The assistance is secured through competitive negotiation procurement procedures;
 - (2) The scope of services and responsibilities and fees of the service provider are clearly stated in an administrative services contract;
 - (3) Fees are reasonable, related to the services provided, and the charges/billings are based upon predetermined time and activities, and that the total fee is governed by a "not to

exceed" total which stipulates all responsibilities be completed within the total contract amount; and

- (4) The sub-grantee retains control and responsibility for all grant requirements, and maintains oversight over the service provider.
- c. Governmental agencies, such as councils of government, housing authorities, and other general purpose local governments, may be contracted for general administration and/or design services and/or rehabilitation specialist services on a noncompetitive basis provided that their contracts identify:
 - (1) A specific scope of services;
 - (2) Responsibilities of all contracting parties;
 - (3) A "not to exceed amount;"
 - (4) Billing stipulations on a cost reimbursement basis; and
 - (5) Provisions for oversight by the chief administrator of the locality.

2. Project Administration Requirements:

- a. Maintenance of budget and project management plan during the Project;
- b. Reporting via monthly progress reports;
- c. Processing payments, bookkeeping;
- d. Recordkeeping;
- e. Local audits;
- f. Acquisition of real property and easements, including negotiation with property owners (when applicable);
- h. Soliciting and reporting on use of minority, female and local contractors and workers;
- i. Assuring conformance of design and construction activities to that stipulated in the grant application, grant agreement and this manual

- j. Procurement of all goods, services, and contracts made with grant funds and any necessary legal review;
 - k. Attendance at workshops and meetings conducted by NCEM related to the project, including the project implementation meeting;
 - l. Compliance with state and federal requirements related to the project;
 - m. Assuring proper and proportional expenditure of non-federal funds required for the project;
 - n. Assisting in project monitoring by NCEM staff and prompt preparation of responses to monitoring letters; and
 - o. Assuring that all requirements of the Grant Agreement and Funding Approval are completed.
3. Allowable Administrative Costs.

The following is a list of the allowable administrative costs which may be incurred from the effective date of the grant agreement through the date of project closeout.

- a. Accounting. The cost of establishing and maintaining accounting and other information systems required for the management of the grant is allowable. However, the cost of maintaining central accounting records required for overall local government purposes, such as appropriation and fund accounts by the finance officer, is considered to be a general expense of government and is not allowable.
- b. Advertising. Advertising media includes newspapers, magazines, radio and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for
 - (1) Recruitment of personnel required for the grant;
 - (2) Solicitation of bids for the procurement of goods and services required for the grant;
 - (3) Disposal of surplus materials acquired in the performance of the grant agreement; and
 - (4) Other purposes specifically provided for in the grant

agreement.

- c. Audit Services. The cost of an independent audit of the Grant is allowable.
- d. Bonding. Costs of premiums on bonds covering employees who handle sub-grantee funds are allowable.
- e. Building Lease Management. The administrative cost for lease management which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.
- f. Building Space and Related Facilities. The cost of space in publicly owned buildings used for the benefit of the grant program is allowable subject to the conditions stated below. The total cost of space may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality.
 - (1) Rental Cost. Costs for publicly owned buildings newly occupied on or after October 1, 1980 are allowable where "rental rate" systems, or equivalent systems that reflect actual costs, are employed. Such charges must be determined on the basis of actual cost (including depreciation based on the useful life of building, interest paid or accrued, operation and maintenance, and other allowable costs). Where these costs are included in rental charges, they may not be charged elsewhere. No costs will be included for purchases or construction originally financed by the federal government.
 - (2) Maintenance and Operation. The cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs and alterations and the like, are allowable to the extent they are not otherwise included in rental or other charges for space.
 - (3) Depreciation and Use Allowances on Publicly Owned Buildings. These costs are allowable as provided in item (j), Depreciation and Use Allowances.
- g. Communication Costs. The costs incurred for telephone calls or services, telegraph, postage, and messenger service are allowable.

- h. Compensation for Personal Services. Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries, and supplementary compensation and fringe benefits (see item (i), Employee Fringe Benefits). The costs of such compensation are allowable to the extent that the total compensation for individual employees:

- (1) is reasonable for the services rendered;
- (2) follows an appointment made in accordance with state or local government laws and rules which meets merit system or other requirements, where applicable; and
- (3) is determined and supported as provided by approved time sheets.

Compensation for employees engaged in state assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the local government. In cases where the kinds of employees required for the Grant are not found in the other activities of the local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

Amounts charged to grant programs for personal services will be based on payrolls documented and approved in accordance with generally accepted practice of the local agency. Payrolls MUST be supported by time and attendance records for individual employees. In addition, there must be a letter signed by the Designated Agent attesting to the pay rate and hours worked on a project. Salaries and wages of employees chargeable to more than one grant program or other cost objective must be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

- i. Employee Fringe Benefits. Costs identified under this item are allowable to the extent that total compensation for employees is reasonable as defined in item (h). Compensation for Personal Services.

- (1) Employee benefits in the form of regular compensation paid to employees during periods of authorized absence from the job, such as for annual leave, sick leave, court leave, military leave, and the like, is acceptable if the leave is:
 - (a) provided pursuant to an approved leave system; and
 - (b) the cost thereof is equitably allocated to all related activities, including the grant.
- (2) Employee benefits in the form of employers' contribution or expenses for social security, employees' life and health insurance plans, unemployment insurance coverage, workmen's compensation insurance, pension plans, severance pay, and the like, is acceptable provided such benefits are granted under approved plans and are distributed equitably to grant programs and to other activities.

j. Depreciation and Use Allowances. Subgrantees may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation. Use allowances are the means of other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

The computation of depreciation or use allowance will be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The computation will exclude the cost of buildings and equipment donated or borne directly or indirectly by the federal government or state government through charges to federal or state grant programs or otherwise, irrespective of where title was originally vested or where it presently resides.

Where the depreciation method is followed, adequate property records must be maintained, and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected federal or state sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

- k. Legal Expenses. The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a local government or his/her staff solely for the purpose of discharging his/her general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the federal government or state government are unallowable.
- l. Maintenance and Repair. Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable
- m. Materials and Supplies. The cost of materials and supplies necessary to carry out the grant is allowable. Purchases made specifically for the grant should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the sub-grantee. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.
- n. Memberships, Subscriptions and Professional Activities.
 - (1) Memberships. The cost of memberships in business, technical and professional organizations is allowable provided: (a) the benefit from the membership is related to the grant program; (b) the expenditure is for agency membership; (c) the cost of membership is reasonably related to the value of the services or benefits received; and (d) the expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

- (2) Reference Material. The cost of books and subscriptions to civic, business, professional, and technical periodicals is allowable when related to the grant program.
- (3) Meetings and Conferences. Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the grant program and they are consistent with regular practices followed for other activities of the sub-grantee.
- o. Payroll Preparation. The costs of preparing payrolls and maintaining necessary related wage records are allowable.
- p. Personnel Administration. Costs for the recruitment, examination, certification, classification, training, establishment of pay standards, and related activities for the grant are allowable.
- q. Printing and Reproduction. Cost for printing and reproduction services necessary for grant administration, including but not limited to forms, reports, manuals, and informational literature, are allowable. Publication cost of reports or other media relating to the grant program accomplishments or results is allowable when provided for in the Grant Agreement. (See the Grant Agreement for mandatory wording in publications.)
- r. Procurement Service. The cost of procurement service, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing goods, facilities and services for grant programs, is allowable.
- s. Professional Services. Cost of professional services rendered by individuals or organizations not a part of the sub-grantee department is allowable.
- t. Taxes. In general, taxes or payments in lieu of taxes, which the sub-grantee agency is legally required to pay, are allowable
- u. Training and Education. The cost of in-service training, which directly impacts the ability of subgrantee staff to administer the grant, is allowable.
- v. Transportation. Cost incurred for freight, cartage, express, postage and other transportation costs relating either to goods purchased, delivered, or moved from one location to another is allowable.

- w. Travel. Travel costs are allowable for transportation, lodging, subsistence, and related items incurred by employees who are on official business directly related to the grant program. Such costs may be charged on an actual basis, on a per diem mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in non-state sponsored activities. The difference in cost between first-class air accommodations and less-than first-class air accommodations is unallowable except when less-than-first-class air accommodations are not reasonably available.

4. Unallowable Administrative Costs.

The following is a list of administrative costs, which are unallowable

- a. Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable.
- b. Contingencies. Contributions to a contingency reserve with HMGP funds or any similar provision for unforeseen events are unallowable.
- c. Contributions and Donations. Unallowable.
- d. Chief Executive's Expenses. The salaries and expenses of the chief executive of a political subdivision are considered a cost of general local government and are unallowable. The only exception is that the portion of salaries and expenses directly related to managing and operating the HMGP project by the chief executive and his or her staff is allowable.
- e. Entertainment. Costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities, are unallowable.
- f. Fines and Penalties. Costs resulting from failure to comply with federal, state and local laws and regulations are unallowable.
- g. Interest and Other Financial Costs. Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable except when authorized by Federal legislation.

- h. Legislative Expenses. Salaries and other expenses of the State legislature or similar local governmental bodies such as county supervisors, city councils, school boards, planning district commission members, etc., whether incurred for purposes of legislation or executive direction, are unallowable.
- i. Local Government Expenses. General expenses required to carry out the overall responsibilities of local government are unallowable.
- j. Advisory Councils. Cost incurred by advisory councils or like organizations is ineligible, except in the case of project area committees.
- k. Budgeting. Cost incurred for the development, preparation, presentation, and execution of budgets are ineligible (cost incurred relative to the specific grant budget is allowable).
- l. Central Stores. The cost of maintaining and operating a central stores for supplies, equipment, and materials is ineligible.
- m. Employee Morale, Health and Welfare Costs. The cost of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, or any related expenses incurred in accordance with general state or local policy, is ineligible.
- n. Exhibits. Ineligible. (Trade shows, for example, are not an allowable cost).
- o. Motor Pools. The cost of a service organization, which provides automobiles to user agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection and repair services, is ineligible.
- p. Pre-Agreement Costs. Cost incurred related to the Grant proposal prior to executing the Grant Agreement is ineligible, for reimbursement under HMGP.

5. Classification of Costs.

General administrative costs can be classified in either of two ways, as direct costs or as indirect costs.

- a. Direct Cost is the cost required specifically for the implementation of the HMGP project. According to OMB A-87, Attachment A:

"Direct costs are those that can be identified specifically with a particular final cost objective." Typical direct costs chargeable to grant programs are:

- (1) Compensation of employees for the time and efforts devoted specifically to the execution of grant programs;
- (2) Cost of materials acquired, consumed, or expended specifically for the purpose of the grant;
- (3) Equipment and other approved capital expenditures;
- (4) Travel expenses incurred specifically to carry out the grant.

From these definitions, it can be seen that the following items of allowable costs are typical examples of direct cost:

- Compensation for Personal Services
- Employee Fringe Benefits
- Legal Expenses
- Materials and Supplies
- Printing and Reproduction
- Professional Services
- Travel

- b. Indirect Costs are related support costs associated with the implementation of the grant. A-87 defines indirect cost in the following manner:

- (1) Costs incurred for a common or joint purpose benefiting more than one cost objective; and

- (2) Costs not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved.

Examples of Allowable Costs that are indirect costs include:

- Building Space and Related Facilities
- Payroll preparation
- Personnel Administration
- Taxes, except taxes related to directly charged total compensation and
- Training and Education.

All of the Cost Allowable With Approval would normally be considered indirect cost. However, since there is no universal rule for classifying certain cost as either direct or indirect under every accounting system, it is essential that each item of cost be treated consistently either as a direct or an indirect cost.

A particular expense item may contain both direct and indirect cost and should be broken down accordingly. For example, the category Capital Expenditures may include the special equipment necessary only for the particular grant project (a direct cost specifically identified with the grant) and the category may include equipment necessary for activities of the local government provided in support of both its regular operation and the implementation of the grant (indirect cost).

- c. Options. Including indirect cost as a part of administration in your grant budget is not automatic. It requires the preparation of a Cost Allocation Plan upon which to base the recovery of these monies. In the North Carolina HMGP program, a locality has two options for charging administrative cost.
- (1) For a locality desiring to use the full array of allowable cost, the preparation of a Cost Allocation Plan is required. Such a plan identifies, accumulates, and distributes all allowable administrative cost under grants and contracts.

Its purpose is to provide an equitable means of allocating cost, both direct and indirect, to all programs of the locality.

- (2) For a locality electing not to prepare a Cost Allocation Plan, allowable administrative cost may be charged to the grant provided source documentation is kept substantiating that such costs are specifically and solely allocable to the grant. That is, the locality must "cost out" each item for which a claim is made. Under this option no charge involving an indirect or fixed rate would be made against the grant.

D. PROGRAM COST-SHARING

FEMA may contribute up to 75 percent of the cost of projects approved for funding under the HMGP for major disasters declared on or after June 30, 1993.

Non-Federal Contribution. A non-federal source must contribute the remaining percentage of the total eligible project costs. Use of the non-federal share must meet all program requirements, including eligibility criteria and compliance with applicable federal and state environmental laws.

In-Kind Matches. While the subgrantee must meet the cost share requirements, the local share does not have to be cash; all or a portion of it can be met with in-kind services or materials that are allowable costs provided by either the subgrantee or a third party.

Permanent Federal Identity. HMGP funds do not lose their federal identity and may not be used as a match for another federally funded project, including U.S. Army Corps of Engineers projects.

E. PROGRAM INCOME [Referenced in 44 CFR § 13.25]

Program income is defined as gross income received by a unit of local government or a sub-grantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period.

Use of program income is determined by timing of its receipt:

1. Income earned prior to Administrative Closeout - Any repayment of grant expenditures made to the locality prior to the Final Closeout must be utilized on the project in accordance with the grant agreement. Such payments must be utilized to offset drawdowns from the locality's grant account. All program income earned must either be expended prior to

Final Closeout of the grant or returned to NCEM unless pre-approved by NCEM for use after closeout.

Unless otherwise directed by NCEM, any income generated prior to the Final Closeout must be used to defray the overall costs of the project. This in turn will reduce the total grant amount.

For example, if the total cost estimate for a project is \$100,000, but salvage is sold for \$5,000 before the Final Closeout, that \$5,000 is program income. Consequently, total cost for the project would be \$95,000 (\$100,000 minus \$5,000). Therefore, the federal share for this project would be no more than 75 percent of \$95,000, or \$71,250. The sub-grantee would be responsible for at least 25 percent, or 23,750. Subsequently, sub-grantee administrative costs may be reduced.

2. Income earned after Administrative Closeout - Program income must be returned to NCEM, unless NCEM has approved the use of program income by the sub-grantee. The sub-grantee must notify NCEM in writing at least thirty (30) days prior to generating income. Income from the use of HMGP funds received after closeout is not considered program income and may be expended as general fund monies. However, this income must be pre-approved by NCEM.

F. AUDIT

The audit requirements for HMGP are set forth in OMB Circular A-133.. This circular establishes audit requirements for state, local, and Indian tribal governments that receive federal assistance. It requires that audits be performed on an organization-wide basis and not on a grant-by-grant basis. These audits are conducted in order to determine, for the entire organization, whether

- (a) financial operations are conducted properly,
- (b) the financial operations are presented fairly,
- (c) the organization has complied with laws and regulations affecting the expenditure of federal funds,
- (d) internal procedures have been established to meet the objectives of federally assisted programs, and
- (e) financial reports contain accurate and reliable information.

Subgrantees should ensure that the auditors procured to conduct the local audit are familiar with the requirements of OMB Circular A-133. A copy of the regulations can be requested from the North Carolina Division of Emergency Management, Hazard Mitigation Section at (919) 715-8000 or visit <http://www.whitehouse.gov/omb/circulars/>.

In general, audits of federal funds received by a locality will be conducted as part of the regular audit cycle as required by G.S. 159-34. The OMB Circular A-133 audit is an extension of the traditional financial audit that most governments are receiving now. OMB Circular A-133 enlarges this traditional audit to include:

1. A supplemental schedule of grant activity - which lists selected grant data on a grant-by-grant basis
2. An auditor's report on the supplemental schedule, an auditor's report on internal control, an auditor's report on compliance matters, details of questioned cost and practices, noncompliance and other audit findings.

Though the “single audit” concept increases the scope of the traditional audit, it would not cause a large increase in the time required to complete the audit or the cost incurred to produce the audit.

Audits of federal funds should be conducted in accordance with:

1. Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States. GAGAS incorporates the typical Generally Accepted Auditing Standards (GAAS) but involve additional auditor responsibilities including special reporting on internal controls and on compliance with applicable laws and regulations.

2. The General Accounting Office "Guidelines for Financial and Compliance Audits of Federally Assisted Programs."

NCEM is responsible for receiving all audits for recipients of HMGP funds and clearing any questions related to the overall financial management; it is also responsible for ensuring:

- a. audits meet required federal standards;
- b. all audit reports are received;
- c. recipients and sub-recipients of federal financial assistance submit a corrective action plan to resolve any weaknesses in internal controls and matters of noncompliance restrictive to federal programs that were disclosed by audit; and
- d. recipients of funds are monitoring the audit reports, conducted under the appropriate federal circular, on their sub-recipients.

All localities must send a copy of their audit to NCEM within thirty days after acceptance by the unit of local government. These audits will be reviewed for content and compliance with OMB Circular A-133. Written notification of approval or the need for additional information will be provided to the locality.

A. DRAW DOWNS

The North Carolina Department of Crime Control and Public Safety (CCPS), Division of Emergency Management is the primary grantee of the funds processed through Smartlink and will follow FEMA's regional requirements and procedures for processing and reporting disbursements of these funds to the subgrantee. The state administers HMGP and will disburse funds in accordance with state and federal regulations.

1. Disbursement of Funds

As in other federally funded programs the Smartlink system will be used by the Governor's Authorized Representative (GAR) for processing and reporting the disbursement of federal funds. Once funds are deposited the Hazard Mitigation Section will be notified that the funds have been placed into account for the particular applicant and project.

- a. Upon receipt of a letter from FEMA stating that the funds have been electronically transferred through Smartlink into the account of CC&PS, the state will notify the sub-grantee's "contact person"

in writing that their project has been approved for funding and that funds have been obligated.

- b. The State Hazard Mitigation Financial Officer will submit to the sub-grantee, the grant agreement, which is to be signed by the sub-grantee's Designated Agent and returned as soon as possible to the Financial Officer for execution. The grant agreement should be returned to the following address:

North Carolina Emergency Management
Attn: Finance Section
1830-B Tillery Place
Raleigh, NC 27604

Once the grant agreement has been executed and returned to the sub-grantee, implementation of the project can begin. The sub-grantee will receive a cost report 14 days after the grant agreement has been executed.

2. Required Documentation/Reporting

The sub-grantee will submit a Cost Report form to the assigned project manager for that particular project. The Cost Report form is for reimbursement of funds spent by the sub-grantee or to request an advance payment. The request must indicate what the funds will be used for and contain back-up documentation that supports the need for the funds.

- a. Requesting reimbursement - documentation should be attached indicating what the request is for and a breakdown of monies previously spent.
- b. Advance payment - documentation should indicate why the advance is needed and how the advancement will be spent (i.e., work to be performed, scope of that work, how many homes to be appraised, dollar amount requested, or the time frame needed for the completion of that phase of work). **Prior NCEM approval is required for all advanced payments.**

3. Processing the Request

The sub-grantee will submit their cost report/advance requests directly to the project manager for that project as funds are needed.

- a. Once the project manager has reviewed and approved the “request” for compliance and accuracy, the project manager will then submit the request to the financial officer for review and processing.
- b. The financial officer will forward the request to the State Controller’s office at the Department of Crime Control & Public Safety.
- c. The State Controller’s office will process the fund request and will mail a check to the sub-grantee within 7 business days.

4. Funds Spent in Cost Reports

- a. Administrative costs must be spent in proportion to the project costs.
- b. 10% of the project costs will be withheld until the final closeout has been performed on the project. However, NCEM has the right to waive this rule due to extraordinary circumstances.

[Special Note: After final edits are completed, the Audit section will be moved to follow after the Draw Downs section]

Chapter 3

PROCUREMENT

This chapter is meant to serve as guidance for the procurement process of a mitigation grant. The following documentation is to be adhered to during program implementation.

Objectives

In general, the objectives of a sound procurement system are:

1. To promote to the maximum extent possible, free and open competition;
2. To insure that a sub-grantee is receiving the best product or service at the most effective cost; and
3. To provide written guidelines in accordance with Administrative Requirements (44 CFR Part 13).

To guarantee that the above objectives are implemented, the sub-grantee must use its own local procurement procedures, which reflect applicable state and local laws. **Documentation stating that these procedures have been used must be included in the project closeout file.** It is the responsibility of the sub-grantee to insure that all purchases which are made are in accordance with the applicable regulations, and that adequate documentation is maintained to support the purchase. Additionally, sub-grantee's must maintain a written code of conduct governing the performance of their employees engaged in the award and administration of contracts.

In accordance with the Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (44 CFR Part 13), the following methods of procurement are to be followed.

A. SMALL PURCHASE

Small purchases are meant for securing services and supplies. This method may be used if the cost of the service is \$25,000 or less. If small purchase procedures are used, price rate quotes should be obtained from an adequate number of qualified sources, preferably three. A record of the verbal quotations should be retained for audit purposes. The documented record should list date, the firm or person contacted, and the amount of the quote given.

B. SEALED BIDS (FORMAL ADVERTISING)

Procurement through sealed bids is the preferred method for procuring contracts for public facility activities. Bids are publicly solicited and firm-fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid

conforming with all the material terms and conditions of the invitation for bids is the lowest price.

For sealed bidding to be feasible, the following is recommended:

1. A complete, adequate, and realistic specification or purchase description;
2. Two or more responsible bidders; and
3. The procurement entails a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

1. The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;
2. The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
3. All bids will be publicly opened at a time and place prescribed in the invitation; and
4. A final fixed-priced contract award will be made in writing to the lowest responsible bidder.

C. COMPETITIVE NEGOTIATION

Securing services by competitive negotiation is a technique used when more than one source submits a proposal for an offer. If the competitive negotiation process is used, the following requirements will apply.

1. Request for Proposals (RFPs) will be publicized. This publication will identify in general terms the contractual terms and conditions required of the contractor. Additionally, all evaluation factors will be identified. Upon the publication of the RFP in a newspaper of general circulation, a minimum of fourteen days must be allowed prior to the date of the proposals;
2. Proposals will be solicited from an adequate number of qualified sources;
3. All proposals will be evaluated. Evaluation factors will include performance, integrity, cost reasonableness, etc.; and
4. Awards will be made to the most qualified and cost effective bidder.

D. NONCOMPETITIVE NEGOTIATION*

Procurement by noncompetitive negotiation is the solicitation of a proposal from only one source, or after solicitation of a number of services, competition is determine inadequate. The noncompetitive negotiation process may be used when one of the following circumstances applies.

1. Single Source; and
2. After solicitation of a number of sources, competition is determined inadequate.

*** The North Carolina Division of Emergency Management must authorize the use of the noncompetitive process.**

E. AFFIRMATIVE ACTION

Grantees and sub-grantees should take all necessary steps to assure that minority firms, women's business enterprises, etc. are used when possible. Affirmative steps should include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses are solicited; and
3. Using the services and assistance of the Minority Business Development Agency of the Department of Commerce.

F. RECORDKEEPING

Sub-grantees shall maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following; rationale for the method of procurement, solicitation of contract type, contractor selection or rejection, and the basis for the contract price.

G. CONFLICT OF INTEREST

Interest of Members, Officers, or Employees of the Recipient, Members of Local Governing Body, or Other Public Officials and immediate family members of said members, officers, employees, and officials are barred from having any financial interest in the program. The recipient shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section. This does not, however, preclude any member, officers, or employees of the sub-grantee from participation in an eligible HMGP buyout or elevation project.

Chapter 4

STATUTES

A. COPELAND “ANTI-KICKBACK” ACT PROVISION

As stated in 24 CFR part 85.36

All contracts and sub grants for construction or repair shall include a provision for compliance with the Copeland “Anti-Kickback” Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or sub-grantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

This material is presented in form HUD-4010 and in the Labor Standards Handbook 1344.1 Rev. 1. These provisions should be contained in each set of bid documents and referenced in each contract.

B. “DAVIS-BACON” ACT PROVISION

As stated in 24 CFR Part 85.36

When required by the Federal grant program legislation, all construction contracts in excess of \$2,000 awarded by grantees and sub-grantees shall include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

This material is presented in form HUD-4010 and in the Labor Standards Handbook 1334.1 Rev. 1. These provisions should be contained in each set of bid documents and referenced in each contract.

C. TERMINATION PROVISION

As stated in 24 CFR Part 85.36

b. All contracts in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner which it will be affected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

All contracts must contain a clause which meets this requirement.

D. ACCESS TO RECORDS AND RECORD RETENTION CLAUSE

In general, all official project records and documents must be maintained during the operation of this project and for a period of three years following close out in compliance with 4 NCAC 19L Rule .0911, Recordkeeping.

The North Carolina Department of Economic and Community Development, FEMA, NCEM, the North Carolina Department of the Treasurer, U.S. Department of Housing and Urban Development, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Administering Agency which are pertinent to the execution of this Agreement, for the purpose of making audits, examinations excerpts and transcriptions in compliance with the above rule.

E. CONTRACT WORK HOURS AND SAFETY STANDARD ACT

Contracts awarded by grantees and sub-grantees in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall comply with Section 103 and 107 of the Contract Work Hours and Safety Standard Act (40 USC 327-330) as supplemented by Department of Labor Regulations contained in 29 CFR Parts 3, 5 and 5a.

Under Section 103 of the Act, the Contractor and any of his subcontractors shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of forty hours. Work in excess of the standard work week is permissible, provided the worker is compensated at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in any work week.

Section 5 of the Federal Labor Standard Provisions, HUD Form 4010 sets forth in detail the Section 103 requirements.

Section 107 of the Act provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are

unsanitary, hazardous or dangerous to his health and safety, as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market.

This material is presented in the Labor Standard Handbook 1344.1 Rev. 1. The provisions should be contained in each bid document and referenced in each contract.

F. CLEAN WATER, CLEAN AIR, EXECUTIVE ORDER (E.O.) 11738 AND EPA REGULATIONS PROVISION

Compliance with Air and Water Acts

This agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

The Contractors and any of its subcontractors for work funded under this Agreement which is in excess of \$100,000, agree to the following requirements:

- (1) A stipulation by the contractor or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20;
- (2) Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
- (3) A stipulation that as a condition for the award of the contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA list of Violating Facilities; and
- (4) Agreement by the Contractor that he will include or cause to be included the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt sub-contract and requiring that the contractor will take such action as the Government may direct as a means of enforcing such provisions.

In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c) (1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

G. LOBBYING CLAUSE

Required by Section 1352, Title 31, U.S. Code

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative, agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

H. NONDISCRIMINATION CLAUSE

Section 109, Housing and Community Development Act of 1974

No person in the United States shall on the ground of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title.

I. AGE DISCRIMINATION ACT OF 1975, AS AMENDED

Non Discrimination On The Basis Of Age

No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal Financial assistance.

J. LEGAL REMEDIES PROVISION

As stated in 24 CFR Part 85.36

Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

Examples of legal remedies could be liquidated damages, consequential damages, arbitration and others not listed.

K. EXECUTIVE ORDER 11246 CLAUSE

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, with regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following; employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions in this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September

24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (6) In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contract becomes involved in, or threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

L. SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

Nondiscrimination on the Basis of Handicap

No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal Financial assistance.

Chapter 5

URA AND RELOCATION ASSISTANCE

A. OVERVIEW OF URA

Governing Regulations

The Division of Emergency Management (DEM) has set forth the following provisions as interpretations of the Uniform Relocation Act of 1970 as codified in the 49 CFR Part 24, and the North Carolina General Statutes 133.5 through 133.18. Refer to these documents for additional information during the implementation of Tenant Relocation Assistance.

Applicability

The Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) mandates that property owners receive just compensation for their property and relocation assistance from Federal acquisition programs. The URA also sets specific time limits and places other requirements on the acquiring agency. There is an exception to the provisions of the URA for voluntary transactions that meet the specific criteria found in 49 CFR Part 24.101(a). This exception requires that the acquiring agency (sub-grantee) inform the property owner in writing:

1. That it will not use its power of condemnation to acquire the property in the event negotiations fail; and
2. That the sub-grantee will offer what it believes to be the fair market value of the property.

Although HMGP projects must meet the above criteria for voluntary programs, thus allowing an exception to URA provisions, NCDDEM and FEMA recommend that the property owner and the sub-grantee sign a Voluntary Transaction Agreement. This ensures that the property owner understands that they are not automatically eligible for additional relocation benefits beyond the purchase price of the property.

Tenants who must relocate as a result of acquisition of their housing are entitled to URA relocation benefits (such as moving expenses, replacement housing rental payments, and relocation assistance advisory services), regardless of the owner's voluntary participation. For details on these requirements, see 49 CFR Part 24, Subpart C.

Definitions

Acquiring Agency- The term “Acquiring Agency” means a State agency, which has the authority to acquire property by eminent domain under State law, and a State agency or person which does not have such authority.

Displacing Agency- The term “Displacing Agency” means any Federal agency carrying out a program or project, and any State, State agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

State Agency- The term “State Agency” means any department, agency or instrumentality of a State or of a political subdivision of a State, or of two or more states, and any person who has the authority to acquire property by eminent domain under State law.

Alien- The phrase “alien not lawfully present in the United States” means an alien who is not “lawfully present” in the United States as defined in 8 CFR 103.12 and includes:

1. An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act and whose stay in the United States has not been authorized by the United States Attorney General; and
2. An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

Citizen- The term “citizen”, for purposes of this part, includes both citizens of the United States and non-citizen nationals.

Comparable Replacement Dwelling- the term “Comparable Replacement Dwelling” means a dwelling which is as follows:

1. Decent Safe and Sanitary;
2. Functionally equivalent to the displacement dwelling. The term functionally equivalent means that it performs the same function and provides the same utility, and is capable of contributing to a comparable style of living.
3. Located in an area with comparable public utilities, and public and commercial facilities.
4. Reasonably close to the tenant’s place of employment, and adequate to accommodate the tenant’s needs.
5. Located in an equal or better neighborhood, and not subject to unreasonable adverse environmental factors. Also, the home must be available to the tenant on the open market at the time of displacement.

Decent, Safe, and Sanitary Dwelling- The term “Decent, Safe and Sanitary Dwelling” means a dwelling which meets applicable housing and occupancy codes. The dwelling shall:

1. Be structurally sound, weathertight, and in good repair;
2. Contain safe electrical wiring;
3. Contain an adequate heating system;
4. Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person;
5. Contain unobstructed egress to safe, open space; and
6. For a displaced person who is handicapped, be free of barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person.

Displaced Person- The term “Displaced Person” means any person who moves from the real property or moves his or her personal property from the real property, as a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project. This includes a person who occupies the real property prior to its acquisition, but does not meet the length of occupancy requirements. The following is a non-exclusive listing of persons who do not qualify as displaced persons under this part:

1. A person who moves before the initiation of negotiations unless the Agency determines that the person was displaced as a direct result of the program or project; or
2. A person who initially enters into occupancy of the property after the date of its acquisition in the project; or
3. A person who has occupied the property for the purpose of obtaining assistance under the Uniform Relocation Assistance Act;
4. A person who is not required to relocate permanently as a direct result of the project, such determination shall be made by the Agency in accordance with any guidelines established by the Federal Agency funding the project; or
5. A person who after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced due to the project, such notice shall not be issued unless the person has not moved and the agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility; or
6. An owner-occupant who voluntarily conveys his or her property, after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the agency will not acquire the property, in such cases, however, any resulting displacement of a tenant is subject to the regulations in this part; or
7. A person who is determined to be in unlawful occupancy prior to initiation

- of negotiations, or a person who has been evicted for cause, under applicable law; or
8. A person who is not lawfully present in the United States.

Dwelling- the term “Dwelling” means the place of permanent or customary and usual residence of a person. This is to include; a single-family house, a multi-family unit, a cooperative housing project, a non-housekeeping unit, a mobile home, or any other residential unit.

Income- Annual income is the total income from all sources from household members above the age of 18. However, full time students or residents of an institution may be assumed to be a dependent, unless demonstrated otherwise, and excluded from the calculation. Annual household gross income will be utilized in determining the monthly household gross income for making payment calculations. Income is composed of the following sources:

1. Wages and salaries, overtime pay , commissions, fees, tips and bonuses
2. Net income from the operation of businesses or farms
3. Interest, dividends or other net income for real property (rental income)
4. Full amount of periodic payments from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of funds
5. Funds in lieu of earnings, including unemployment compensation, disability compensation, workers’ compensation and severance pay
6. Welfare assistance
7. Periodic and determinable allowances such as alimony, child support and regular gifts from persons not dwelling with the recipient
8. Armed forces pay

Income does not include the following:

1. Income from employment of children under the age of 18
2. Payments for the care of foster children
3. Lump-sum additions to assets, such as inheritances, insurance payments (including payments under health and accident insurance and workers’ compensation), capital gains and settlement for personal property losses
4. Reimbursement of medical expenses for any household member
5. Income of a live-in aide
6. Educational Scholarships paid directly to the student or educational institution
7. Special hostile fire pay to a household member serving in the Armed Forces
8. Amounts received under training programs funded by HUD; Amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income (SSI) eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS); Amounts received by a participant in other publicly assisted

- programs which cover out-of-pocket expenses incurred and which are made solely to allow participation in a specific program.
9. Temporary, nonrecurring or sporadic income (including gifts)
 10. Amounts specifically excluded by an other Federal Statute

Initiation of Negotiations- Unless a different action is specified in applicable Federal program regulations, the term “Initiation of Negotiations” means the following:

- Whenever the displacement results from the acquisition of the real property by a Federal Agency or State Agency, the initiation of negotiation means the delivery of the initial written offer of just compensation by the Agency to the owner or the owner’s representative to purchase the real property for the project.

Owner of a Dwelling- A person is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property;

1. Fee title, a life estate, a land contract, a 99-year lease, or a lease including any options for extension with at least 50-years to run from the date of acquisition; or
2. An interest in a cooperative housing project which includes the right to occupy a dwelling; or
3. A contract to purchase any of the interest or estates; or
4. Any other interest, including a partial interest, which in the judgement of the agency warrants considerable judgement.

Person- The term “Person” means any individual, family, partnership, cooperation, or association.

Tenant- The term “Tenant” means a person who has the temporary use and occupancy of real property owned by another.

B. ELIGIBILITY DETERMINATION

A tenant displaced from a dwelling due to a FEMA-funded acquisition project is entitled to rental assistance if:

1. That tenant occupied the displacement dwelling for at least the 90 days preceding the negotiations for acquisition of the property; and
2. The tenant rents or purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date he or she moves out of the original dwelling.

There are two ways of determining the date of the start of negotiations for acquisition of the property. If a tenant is currently occupying the residence, the date of the start of negotiations is the date that the community makes a written offer to purchase the property. If the unit is uninhabitable and has not been inhabited since the disaster, the date of the disaster should be used as the date of the start of negotiations.

In cases where a tenant has been displaced by the disaster but does not reoccupy the property after it has been repaired, this tenant is not eligible for relocation assistance. In this case the tenant was not permanently displaced by the disaster. In addition, the tenant is not required to relocate permanently as a direct result of a project. The tenant that legally reoccupied the unit prior to being dislocated at closing is eligible to receive relocation assistance, subject to eligibility rules of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (see above).

Aliens

A person who is an alien not lawfully present in the United States is not eligible to receive URA relocation benefits or relocation advisory services. The state may approve exceptions if unusual hardship to the alien's spouse, parent or child who is a U.S. citizen or an alien admitted for permanent residence, would otherwise result.

Sub-grantees will ask tenants who are potential recipients of URA assistance to certify that they are a U.S. citizen or national, or are lawfully present in the U.S. Sub-grantees will not provide URA assistance to participants who refuse to certify or are not a U.S. citizen or lawfully present.

Some examples of Qualified Aliens (lawfully present) are defined as:

1. Lawful permanent residents;
2. Refugees;
3. Asylees;
4. Person's who have had their deportation withheld;
5. Parolees admitted for at least one year;
6. Aliens who have been present since before April 1, 1980; or
7. Certain battered aliens and alien parents of battered children under certain conditions.

For more guidance the *Handbook for Employers (M-274)* created by the Department of Justice can be referenced.

General Information Notice

According to the 49 CFR Part 24.2, all tenants that are eligible must receive a *General Notice of Information* and/or a *Notice of Intent to Acquire*. These letters "inform the person that he or she may be displaced due to the project and

generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s) .” The letter also discusses the relocation advisory services and the appeal process, it also states that the tenant “will not be required to move without at least 90 days advance written notice.”

Due diligence must be done to ensure all tenants that are eligible have been contacted. Some examples of due diligence are:

1. Posting an ad in the newspaper
2. Posting signs around town
3. Searching the internet
4. Contacting the local utility companies

C. STRAIGHT TENANT - 90-DAY OCCUPANT (Sec. 24.402)

A 90-day occupant is explained as a tenant or owner occupant displaced from a dwelling. This person is entitled to a payment not to exceed \$5,250, with the exception of a last resort housing situation.

Length of occupancy

This person is only eligible if he or she:

1. Has actually and lawfully occupied the displacement dwelling for at least 90-days prior to the initiation of negotiations.
2. Has rented or purchased, and occupied a decent, safe, and sanitary replacement dwelling within one year after (unless the Agency extends this period for good cause);
 - i. For a tenant, the date he or she moves from the displacement dwelling,
 - ii. For an owner-occupant, the later of either, the date of receipt of final payment for the displacement dwelling, or the date that he or she moves from the displacement dwelling.

Calculations

Amount of Payment: An eligible tenant is entitled to a payment not to exceed \$5,250 for rental assistance. This payment shall be calculated by subtracting the base monthly rent for the replacement dwelling from the lesser of:

1. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
2. The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

3. This payment shall be multiplied by 42 months.

Base monthly rental for displacement dwelling: The base monthly rental for the displacement dwelling is the lesser of:

1. The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency; or
2. Thirty percent of the person's average gross household income; or
3. The total of the amounts designated for shelter and utilities if receiving a welfare assistance payment for shelter and utilities

Last Resort Housing

The replacement housing payment for an eligible 90-day occupant should not exceed \$5,250, however, should it exceed this amount then it will be considered a last resort housing payment. Any decision to provide last resort housing assistance must be adequately justified:

1. On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:
 - i. Comparable replacement housing being available in the community or surrounding communities; and
 - ii. The resources available to provide comparable replacement housing; and
 - iii. The individual circumstances of the displaced person; or
2. By a determination that:
 - i. There is little, if any, comparable replacement housing available to displaced persons within an entire community or surrounding communities; and therefore last resort housing assistance is necessary for the area as a whole; and
 - ii. A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and
 - iii. The method selected for providing last resort housing assistance is cost effective, considering all elements which contribute to total program or project costs.

The methods of providing last resort housing include, but are not limited to:

1. A replacement housing payment that exceeds \$5,250, as stated in 49 CFR Part 24.402. A rental assistance payment under this section may be provided in installments or in a lump sum at the Agency's discretion.
2. Rehabilitation of and/or additions to an existing replacement dwelling.
3. The construction of a new replacement dwelling.
4. The removal of barriers to the handicapped.

90-day Notice

No tenant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available.

In unusual cases, an occupant may be required to vacate the property in less than 90 days advance written notice if the displacing agency determines that a 90-day notice is unfeasible. Such as cases when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the Agency's determination shall be included in the applicable case file.

Failure to Meet 90-day Requirement

Any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person is entitled to payment of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary.

Payment Disbursement

Downpayment assistance is to be paid in one lump sum to the displaced person, the lending agency, or a combination of both. A rental assistance payment should be disbursed in at least two installments. These payments can only be paid after the replacement dwelling has been inspected and meets the decent, safe and sanitary determination.

All claims for relocation assistance shall be made no more than 18 months from the date of displacement.

D. RELOCATION ASSISTANCE- MOBILE HOMES

A displaced individual or family covered under this category shall be eligible to receive replacement housing payments in accordance with the following sections of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA). Specifically referenced are the following sections of the URA as codified in the 49 CFR:

1. Section 24.401 - 180 Day Homeowners
2. Section 24.403 - Additional Rules

3. Section 24.404 - Replacement Housing of Last Resort
4. Section 24.501 through 24.505- Mobile Homes

A person who rents a mobile home involved in the program is considered a tenant and would be compensated using assistance previously outlined for tenants.

Mobile home owners who rent a mobile home site but rent out the mobile home to a tenant are considered non-occupant owners. Non-occupant owners are not eligible for replacement housing assistance. Non-occupant owners can receive pre-disaster fair market value for their mobile home or reasonable costs for moving the mobile home. They are eligible for actual reasonable moving expense payments under Section 24.303. Non-occupant owners are also entitled to receive a payment, not to exceed \$10,000, for expenses actually incurred in relocating and reestablishing their business (renting out mobile homes) under Section 24.304 of the 49 CFR.

Mobile home occupant owners who lease a homepad and who must relocate to a new homepad as the result of acquisition of their homepad are entitled to URA relocation benefits and replacement housing payments, regardless of the homepad owner's voluntary participation. In a case where the mobile home is in sound condition to be physically relocated, the mobile home occupant owner is entitled to actual payments to physically move the structure. In this case, they are not losing their mobile home, but may still be entitled to rental assistance. In a case where the mobile home is not capable of being physically relocated, the mobile home occupant owner may be entitled to a replacement housing payment, rental assistance, and moving expenses.

Replacement Housing Payments for 180-Day Occupant Owners

Eligibility- A displaced mobile home occupant owner is eligible for the replacement housing payment if the person:

1. Has actually owned and occupied the displacement dwelling for not less than 180-days immediately prior to the initiation of negotiations; and
2. Has occupied the mobile home on the displacement site for at least 180 days immediately prior to the initiation of negotiations; and
3. The Agency acquires the mobile home and/or the mobile home site, or the mobile home is not acquired by the Agency but the owner is displaced from the mobile home because the Agency determines that the mobile home;
 - i. Is not and cannot economically be made decent, safe, and sanitary; or
 - ii. Cannot be relocated without substantial damage or unreasonable cost; or

- iii. Cannot be relocated because there is no available comparable replacement site; or
 - iv. Cannot be relocated because it does not meet mobile home park entrance requirements.
4. Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date that the person received final payment for the displacement dwelling (except the Agency may extend the one year period for good cause).

NOTE: The initiation of negotiations for a mobile home owner who does not own, but rather rents the site upon which the home rests, is determined to be the initiation of negotiations to acquire the land.

Calculation of Payment

The replacement housing payment for an eligible 180-day occupant owner should not exceed \$22,500, however, should it exceed this amount then it will be considered a last resort housing payment. This payment shall be the sum of the following three items:

- 1. The amount by which, the lesser cost of either the actual replacement dwelling or the comparable replacement dwelling, exceeds the acquisition cost of the displacement dwelling.
 - i- The acquisition cost of the displacement dwelling shall include the amount of any proceeds received in connection with a structural loss to the dwelling due to a catastrophic occurrence (fire, flood, etc.), so as to avoid an duplicate compensation.
- 2. The reasonable expenses incidental to the purchase of the replacement dwelling. Refer to Section 24.401 of the 49 CFR. These expenses are necessary costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including;
 - i. Legal, closing, and related costs.
 - ii. Lender application and appraisal fees.
 - iii. Loan origination or assumption fees that do not represent prepaid interest.
 - iv. Certification of structural soundness and termite inspection when required.
 - v. Credit report.
 - vi. Evidence of title.
 - vii. Escrow agent's fee.
 - viii. State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).
 - ix. Such other costs as the Agency determines to be incidental to the

purchase.

3. The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling. Refer to 24.401 of the 49 CFR for additional clarification. Any adjustments made under this section shall be based on bona fide mortgages that were valid liens on the displacement property for at least 180 days prior to the initiation of negotiations.
4. NOTE: Should the displaced 180-day owner occupant, who is eligible for a replacement housing payment as listed above, elect to rent a replacement dwelling rather than purchase, is eligible for a rental assistance payment not to exceed \$5,250, as computed in the section for 90-Day Occupants (tenants).

Rental Assistance Payment for 180-Day Occupant Owners

Eligibility- Rental Assistance payments for 180-day occupant owners only applies if the displaced person did not own the land upon which the structure rested. The displaced person can use the rental assistance payment as a down payment to acquire either land or a land and home situation. A displaced mobile home occupant owner is entitled to rental assistance if:

1. The cost of the lesser of either the comparable or actual replacement site exceeds the cost of the displacement site.
2. The displaced person legally occupied the displacement site 180-days prior to the initiation of negotiations.

Calculation of Payment - This calculation is determined much like that of a 90-day occupant (tenant), and should not exceed \$5,250. It is 42 times the difference between the base monthly rent and utilities of the displacement site subtracted from the lesser of either the monthly rent and utilities cost for the comparable or actual replacement site. If the displaced person paid little or no rent, then the current market rate for a rental site can be used as the displacement portion of the calculation.

Replacement Housing Payment for 90-Day Occupant Owners

Eligibility- A replacement housing payment for 90-day occupant owners applies if the displaced person did not own the land upon which the structure rested, and:

1. The person actually owned and occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations; and
2. The Agency acquires the mobile home site, or the mobile home is not acquired by the Agency but the owner is displaced from the mobile home because of one of the circumstances listed in the section for Replacement Housing Payment for 180-Day Occupant Owners.

Calculation of Payment - The payment for a 90-day displaced occupant owner is not to exceed \$5,250. This payment should be calculated by following the procedure outlined in 90-Day Occupants (tenants).

Relocation Assistance for Mobile Home Owners

Eligibility- A payment will be made to a mobile home owner for actual costs incurred to physically relocate the structure if;

1. The structure is structurally sound to be moved, and
2. The mobile home owner does not received acquisition funds for the structure, and
3. The mobile home owner is involuntarily displaced and has to move the structure as a result of the land owner's voluntary sale of the parcel.
4. The mobile home owner moves the structure to a replacement site.

Calculation of Payment- The payment to physically relocate a mobile home shall

be paid on an actual cost basis and will include the following;

1. Reasonable costs of disassembling, moving, and reassembling any attached appurtenances, such as porches, decks, skirting, and awnings, which were not acquired, and
2. Anchoring of the unit, and
3. Utility connection costs, and modifications necessary to adapt the utilities at the replacement site to the personal property.
4. A non-returnable mobile home park entrance fee to the extent that it does not exceed the fee at a comparable mobile home park.

The Payment will not include the following;

1. Any returnable (refundable) deposits paid in connection with re-establishing residence.
2. Any costs incurred with utility connections that are paid to service providers that are normal costs incurred with any transfer of residence. For example, a reconnection charge assessed by the local telephone company for any transfer in residence. These types of costs would be incurred with any residential move and are not eligible reimbursable items as they are not incurred due to the extraordinary nature of the involuntary displacement.

Additional Payments- A rental assistance payment can be made to a mobile home occupant owner who is being involuntarily displaced from the rented mobile home site, and has to physically relocate the structure. If the mobile home owner moves the structure to a replacement site, they are entitled to rental assistance which can be applied to rent at the replacement site, or used as a down payment to acquire a replacement site. The rental assistance is calculated as it would be for a 90-day occupant (tenant), however, it applies to lot rent and utilities.

Minimum Notice and Due Diligence Standards

After a disaster, mobile homes are occasionally abandoned and land owners and communities wonder what kind of notice they will need to provide before they remove the abandoned mobile homes. Mobile homes are classified as "motor vehicles" for purposes of the North Carolina statutes, see In re Wester, 229 B.R. 348, 350 (Bankr. E.D.N.C. 1998). A motor vehicle will be deemed abandoned when that vehicle "has remained illegally on private or public property for a period of more than 10 days without the consent of the owner or person in control of the property." N.C.G.S. §20-137.7(l). Abandoned vehicles may legally be removed, provided the removal is not objected to by the owner of the private property, provided the requisite statutory notice is given the vehicle owner, N.C.G.S. §20.137.9. Specifically, N.C.G.S. §20-137.10 requires that "[w]hen any vehicle is derelict or abandoned in this State, the Secretary [of the North Carolina Department of Transportation] shall cause a tag to be placed on the vehicle which shall be notice to the owner ... that the same is considered to have been derelict or abandoned and is subject to forfeiture to the State." N.C.G.S. §20-137.10(a).

The tag shall serve as notice to the owner that if the vehicle is not removed within five (5) days from the date reflected on the tag, the vehicle will be removed to a designated place to be sold. After removal of the vehicle, the Secretary of the North Carolina Department of Transportation shall give written notice to person in whose name the vehicle was last registered at the last address reflected in the Department of Transportation's records, designating the place where the vehicle is being held and alerting the owner to the fact that if the vehicle is not redeemed within ten (10) days from the date of notice the same shall be sold for recycling purposes. ." N.C.G.S. §20-137.10(c). Redemption of the vehicle requires the owner to pay all costs incurred in the removal and storage of the vehicle.

Notably, if the value of the vehicle is determined to be more than one hundred (\$100.00) dollars, and if the identity of the last registered owner cannot be determined or if the registration contains no address for the owner, notice by one publication in a newspaper of general circulation in the area where the vehicle was located shall be deemed sufficient to meet all statutory requirements of notice. Five (5) days after the date of publication the advertised vehicle may be sold. The proceeds of such sale shall be deposited in the highway fund established for the purpose of administering the provisions of the statute. N.C.G.S. §20-137.10(d).

If the value of the vehicle is determined to be less than one hundred (\$100.00) dollars, and if the identity of the last registered owner cannot be determined or if the registration contains no address for the owner, no additional form of notice other than placement of the State tag on the vehicle, as described hereinabove, is required. N.C.G.S. §20-137.10(d1).

All law enforcement officers of the State, county or municipality, including sanitation officers, are authorized to appraise or determine the value of abandoned vehicles for the purposes of this provision. N.C.G.S. §20-137.10(e).

E. MOVING EXPENSE PAYMENT

Section 24.302 - Fixed Payment for moving expenses – residential moves

Any tenant or owner who is involuntarily displaced from a dwelling is entitled to receive an expense and dislocation payment as an alternative to a payment for actual moving and related expenses under Sec. 24.301. The relocatee will receive payment on the basis of the moving expense schedule (Fixed Rate Method) which is prepared by the U.S. Department of Transportation and shown below for the State of North Carolina.

Section 24.301 - Payment for actual reasonable moving and related expenses – residential moves

Any owner-occupant or tenant of a dwelling who meets the requirements of a displaced person is entitled to payment of his or her actual moving expenses, as NCDEM determines to be reasonable and necessary. This includes expenses for:

- a. Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the NCDEM determines that relocation beyond 50 miles is justified.
- b. Packing, crating, unpacking, and uncrating of the personal property.
- c. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property.
- d. Storage of the personal property for a period not to exceed 12 months, unless NCDEM determines that a longer period is necessary.
- e. Insurance for the replacement value of the property in connection with the move and necessary storage.
- f. The replacement value of property lost, stolen, or damage in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

Other moving-related expenses that are not listed as ineligible under Sec. 24.305 as NCDEM determines to be reasonable and necessary.

F. COMPARABLE REPLACEMENT DWELLING

A comparable replacement dwelling is one which is decent, safe, sanitary, and functionally equivalent to the displacement dwelling. The term “functionally equivalent” means that it may not be identical in nature but performs the same functions, provides the same utility, and is capable of contributing to a comparable style of living. It should be located in an area with comparable public utilities, and public and commercial facilities, be reasonably close to the tenant’s place of employment, and adequate to accommodate the tenant’s needs. It should be located in an equal or better neighborhood, and not subject to unreasonable adverse environmental factors. Also, the home must be available to the tenant on the open market at the time of displacement.

G. COMMUNITY REQUIREMENTS & GUIDANCE

Appeals

Written appeals can be made to the following location:

Section Chief, Hazard Mitigation Section
NC Division of Emergency Management
1830-B Tillery Place
Raleigh, NC 27604

Cost Reports

Requests for funds must include a cost report generated by the Department of Crime Control and Public Safety and a spreadsheet that lists the displacement address, name of tenant, rental assistance payment, moving expense payment, and total payment.

The community's designated agent must sign all cost reports submitted to DEM. The relocation file checklist (Section I.) lists additional information that must be kept on file by the sub-grantee.

Advisory Services

The Agency will provide a summary of the relocation needs and preferences of each person to be displaced, the relocation payments and other assistance for which the person may be eligible for, the related eligibility requirements, and the procedures for obtaining such assistance.

The Agency will provide current and continuing information on the availability, purchase prices, and rental costs of comparable dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available, with the following considerations:

1. As soon as feasible, the tenant shall be informed in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment
2. Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. (See Sec. 24.2.) If such an inspection is not made, the person to be displaced shall be notified that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.
3. All persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred.

H. DUPLICATION OF BENEFITS

Individuals eligible for URA assistance cannot receive payments determined to duplicate previously received payments serving the same purpose. See 49 CFR § 24.3 for specific language. Emergency rental assistance received shortly after a disaster is not considered to serve the same purpose as URA assistance and will not be considered a duplication of benefits.

In most cases, this will apply to owners of manufactured homes that rent land. If the manufactured home owner received any payment to repair or replace their home and the owner cannot provide receipts for repairs, this amount is subtracted from the acquisition payment. If there is a negative balance from that transaction, the difference should be deducted from the URA assistance payment.

REQUIRED DOCUMENTS & INFORMATION

Relocation Checklist For Each Displaced/Relocated Person

1. Name of person and address of displacement dwelling
2. Date of initial occupancy of displacement dwelling
3. Age and sex of all household members
4. Monthly gross income of adult members
5. Description of displacement (acquired) dwelling including: address; census tract, monthly housing cost; number of furnished rooms; and average monthly utility costs
6. Description of person's relocation needs and preferences
7. Nature and dates of advisory services provided
8. List of all referrals made, including date, address and price. If low-income or minority displacee, indicate whether the referral dwellings are located in an area of low-income and/or minority concentration
9. Description of replacement dwelling chosen, including: address; census tract; monthly housing cost. If low-income or minority displacee, indicate whether the dwelling is located in an area of low-income/minority concentration
10. Copy of General Information Notice
11. Evidence, including date, of receipt of General Information Notice by displacee
12. Copy of Notice of Eligibility for Relocation Assistance or Notice of Non-Displacement
13. Copy of Notice of Relocation Eligibility
14. Explanation of reason for delay and plan for timely relocation, if relocation is not completed in 6 months
15. Copy of Representative Comparable Relocation Dwelling and Upper Limit of Payment
16. Copy of 90-day notice to vacate, or an explanation of why no such notice was required
17. Record of the replacement dwelling inspection report and date of inspection
18. Copy of each relocation payment claim form and supporting documentation submitted by displacee
19. Copy of each worksheet or document used to determine eligibility for amount of payment made
20. Evidence, including date, of receipt of payment
21. Copy of any correspondence relating to the claim
22. Copy of any appeal filed by displacee, description of action taken to resolve it, and copy of all pertinent determinations

Note: For required documentation of relocation of a business, farm or non-profit organization, contact your Grant Representative.

ADDENDUM

Contents

Disaster Specific Requirements

Fixed Moving Expenses Schedule

Sample Forms

Claim for Moving and Related Expenses, Form HUD-40054

Claim for Actual Reasonable Moving and Related Expenses, Form HUD-40055

Claim for Fixed Payment in Lieu of Actual Moving and Related Expenses, Form HUD-40056

Claim for Replacement Housing Payment for 180-Day Homeowner, Form HUD-40057

Claim for Rental Assistance or Down Payment Assistance, Form HUD-40058

Disaster Specific Requirements

Tenant Relocation Assistance Under Hurricane Floyd:

State funds will be used for URA payments made in conjunction with grants funded under the Hazard Mitigation Grant Program (HMGP). Hurricane Floyd Acquisition and Relocation Grants (HFPAR), also known as Supplemental funds, will be used for URA payments to mobile home owners who lease a homepad and who must relocate to a new homepad as the result of the acquisition of their pre-disaster homepad with HFPAR funds. The project number for the HFPAR grants will include 4292 as the prefix. These mobile home owners also may be eligible for funds administered by the NC Division of Community Assistance to acquire land.

A supplemental grant agreement detailing the amount of state funds available to each community must be executed. If additional funds are required as a result of last resort housing needs, please contact your HMGP project manager. See above for more information on last resort housing.

Cost Reports. Requests for state funds must include a cost report generated by the Department of Crime Control and Public Safety and a spreadsheet that lists the displacement address, name of tenant, rental assistance payment, moving expense payment, and total payment.

Requests for Supplemental funds must include a cost report generated by the Department of Crime Control and Public Safety for HFPAR grant and a spreadsheet that lists the displacement address, name of tenant, rental assistance payment, moving expense payment, and total payment.

The community's designated agent must sign all cost reports submitted to DEM. The relocation file checklist below lists additional information that must be kept on file by the sub-grantee.

Moving Expenses Schedule

Fixed payment for moving expenses - residential moves:

The relocatee will receive payment on the basis of the moving expense schedule (Fixed Rate Method) which is prepared by the U.S. Department of Transportation and shown below for the State of North Carolina.

When Occupant Owns the Furniture

<u>Number of Rooms of Furniture</u>	<u>Amount HMGP will reimburse</u>
1	\$500.00
2	\$700.00
3	\$900.00
4	\$1100.00
5	\$1300.00
6	\$1500.00
7	\$1650.00
8	\$1800.00
Each Additional Room	\$150.00

When Occupant Does Not Own the Furniture

<u>Number of Rooms</u>	<u>Amount HMGP will reimburse</u>
First Room	\$500.00
Each Additional Room	\$150.00

Under the Fixed Rate Method, it should be noted that certain rooms are excluded from the calculations. These include unfurnished or unused rooms, halls, bathrooms, attics, porches, garages, dressing rooms, closets, and utility rooms. However, should the relocatee have significant storage space in the above stated rooms, the Town/County may count one additional room for the sum of these, but this is not to exceed one additional room in the calculation of the number of eligible rooms in the dwelling.

Chapter 6

ACQUISITION

A. BASIC PARAMETERS

The acquisition (or buyout) process involves the purchase of properties which are subject to impacts due to natural hazards. A hazard mitigation acquisition project is voluntary for all parties involved. The community must obtain Statements of Voluntary Participation (see forms) and may not use their powers of eminent domain at any time during the acquisition process. Each party must use their own discretion to continue or deny participation in the project. The local officials may use their discretion to determine whether or not particular properties should be considered, but should be consistent with their local hazard mitigation plan. The state agencies involved in funding the project may use their discretion to determine whether or not funding will be provided for particular properties. All parties should be in consensus regarding the acquisition of any property.

A jurisdiction must be in good standing in the National Flood Insurance Program (NFIP) to be eligible for hazard mitigation funds. Good standing means that there are no violations of the local floodplain ordinance or state floodplain regulations. Any jurisdiction with NFIP violations/issues may be placed on a "hold" status until the violations are resolved. By being placed on "hold," the Jurisdiction will not receive any hazard mitigation funding or state matching funding. This "hold" status may occur prior to the project commencing or at any point during the implementation of the project. It is the responsibility of local jurisdiction to administer the local flood ordinance. It is critical for the jurisdiction to maintain its good standing in the NFIP in order to continue to be eligible for any type of hazard mitigation funds and/or state funds.

B. ELIGIBILITY

Generally, the properties in an acquisition project are located in the identified special hazard area, and have been repetitively or substantially damaged. **The North Carolina Division of Emergency Management, however, retains the right to establish and alter acquisition criteria after each disaster.**

For the purpose of determining eligibility for hazard mitigation funding in the State of North Carolina, the Division of Emergency Management will use the following criteria:

Please see the current State 409 Administrative Plan for the latest HMGP list of priorities and the State 322 Plan for non-disaster funding priorities.

If the proposed structure was clearly substantiated by Federal Income Tax Returns as an individual's primary residence, the structure would be eligible. If an

applicant has two residences and the structure proposed to be acquired or elevated is clearly substantiated by Federal Income Tax Returns as a secondary home, the residence would not be eligible under HMGP in the State of North Carolina. Other non-disaster funds such as PDM and FMA can purchase secondary homes because of their match sources.

The acquisition project must acquire the property as it is defined on the property deed at the time of the flood event. The acquisition project guidelines generally do not encourage a property owner to divide, separate, or parcel the pre-flood deed for inclusion or exclusion in the acquisition project, unless part of the property lies outside of the floodplain, funding is limited, or the structure lies on a very large parcel of land **The North Carolina Division of Emergency Management retains the right to review each individual property on a case-by-case basis and may alter certain guidelines if deemed necessary.**

Also, if multiple parcels are owned by one property owner, all deeds that make up contiguous floodplain property should be acquired. If a property owner chooses to sell their floodplain property, all of their property should be acquired provided there is sufficient funding available.

For HMGP projects the pre-disaster fair market value as determined by a certified appraiser will be offered only to the individual who owned the property at the time of the flood event. The current fair market value will be offered if the property is funded under NCDDEM's non-disaster programs. If the buyout participant voluntarily purchased the flood-damaged property after the flood, they may be offered only what was paid to acquire the property (i.e., the amount of the purchase transaction), unless the pre-flood fair market value is less than the amount of the purchase transaction. In such cases, the buyout participant is offered the lesser of the two amounts.

In cases where the individual who owned the property at the time of the flood event has passed away, the heirs to the estate will be offered the pre-flood fair market value. In cases where the individual who owned the property at the time of the flood event has lost title to the property through situations such as bankruptcy or repossession, the post-flood owner legally appointed will be offered the pre-flood fair market value. With these two cases the post-flood owner has not voluntarily acquired the property and therefore may be offered the pre-flood fair market value rather than the amount of the purchase transaction (as stated in the above paragraph). **Please refer to Policy Memorandum #2 Foreclosure and post-disaster ownership changes for further guidance.**

The structure will not be considered for acquisition if the structure was voluntarily removed after insurance or other assistance has been paid to the property owner for the value of the structure. The owner will not receive a buyout offer for the

structure regardless of the amount of damage the structure received. The owner will receive a buyout offer for the land only.

Debris on Property/Underground Storage Tanks

Prospective buyout properties with debris/garbage will not be purchased until the debris/garbage has been removed from the premises. This type of debris/garbage may include but not limited to hazardous materials, propane tanks, abandoned vehicles, appliances, or structures. The site must be inspected by a local official to verify that the site is free of debris/garbage prior to closing on the property. This policy is in the best interest of the jurisdiction due to potential liability and debris removal costs not covered under demolition funding.

Relocation Assistance

If rental property is in the acquisition project, Uniform Relocation Act (URA) may apply to the renters. There is potential to involuntarily displace renters if the property owner (or landlord) accepts the buyout offer. If this occurs, the renters being displaced may receive relocation assistance, depending on their individual situation. Each renter's situation must be evaluated to determine how much if any, relocation assistance they may receive. This evaluation should be done by a local official, preferably someone with experience in relocation assistance. The local housing authority may be able to provide the jurisdiction with assistance in evaluating each renter's situation. Please see specific guidelines for URA assistance in chapter 5.

C. STEPS IN THE ACQUISITION PROCESS

(See the Hazard Mitigation Acquisition/Demolition Process in the forms section.)

For each step in the acquisition process, the Uniform Act and the implementing regulations require the Sub-grantee to take certain actions to inform property owners of their rights. Sensitive data will be collected for each property owner and must be privacy right protected. A cost tracking spreadsheet will be provided for tracking each step of the acquisition process.

The steps to property acquisition include:

a.. Notify the property Owner

After the decision to acquire is made, a written Preliminary Acquisition Notice must be issued to each property owner. This notice, and all other such notices, MUST be sent by certified or registered mail, return receipt requested, or personally served and receipt documented.

b. **Obtain a Survey**

It is necessary to have a legal metes and bounds description of the property to be acquired. An exception to this may be the acquisition of easements where the easement joins an existing property line. To obtain a metes and bounds description requires the property to be surveyed by a registered land surveyor.

c. **Conduct Title Searches**

As with all real estate transactions a title search is conducted in order to assure that property is being acquired from rightful owners. It is necessary to have the Sub-grantee's attorney render an opinion of title for each property to be acquired in order to identify any ownership issues and encumbrances that will need to be resolved prior to closing.

d. **The Appraisal Process**

The appraiser, hired through competitive bidding for the buyout project must complete a (pre-disaster for HMGP) fair market value appraisal on each property in the project, including vacant lots. The appraisals should recognize that the majority of properties in the acquisition project are located in a special hazard area.

Appraisers must be licensed by the State of North Carolina.

The cost of the first appraisal for all buyout properties will be paid as a project expense and must be maintained in the jurisdictional office through which the grant is administered. A minimum of one appraisal is required for each parcel of property to be acquired. However, if the project is potentially controversial (as with a dissatisfied seller or a conflict of interest involving a public official) or where property values are high, it is recommended that two independent appraisals be conducted, (see Second Appraisal). A review appraisal may be obtained in certain instances and are evaluated on a case by case basis.

Prior to any appraisals being conducted, the Sub-grantee must advise the property owner (in writing) as to the time the appraiser will visit the property and invite the property owner to accompany the appraiser during a site visit. This notice can be included as part of the written Preliminary Acquisition Notice or be sent as a separate notice, (as noted previously, all notices MUST be sent by certified or registered mail, return receipt requested, or personally served and receipt documented).

The appraisal report must reflect nationally recognized appraisal standards, including the Uniform Appraisal Standards for Federal

Land Acquisition. The appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support the opinion of value. Commercial properties (structure/building) are to be treated the same as residential properties, except **commercial properties must be appraised by a North Carolina certified general appraiser** using the narrative format (as opposed to the Uniform Residential Appraisal standard (Fannie Mae) form used for residential structures). The acquisition of commercial property does not include contents of the commercial property or business value. NCDEM will require a copy of the summary page to be forwarded with a reimbursement request.

Appraisal Reports

At a minimum, a detailed appraisal shall contain the following items:

- (1) The purpose of the appraisal, a statement of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal;
- (2) A description of the physical characteristics of the property (and, in the case of a partial acquisition, a description of the remaining property, which must lie outside of the floodplain), a statement of known encumbrances, if any, title information, zoning, an analysis of highest and best use, and at least a 5-year sales history of the property;
- (3) All relevant and reliable approaches to determine value consistent with commonly accepted professional appraisal practices;
- (4) A description of comparable sales, including all relevant physical, legal and economic factors, and verification by a party involved in a transaction;
- (5) A statement of the value of the property to be acquired and, for a partial acquisition, a statement of the damages and benefits, if any, to the remaining property; and
- (6) The effective date of valuation, date of appraisal, signature and certification of the appraiser.

Second (CONTESTED) Appraisal

If a property owner contests the value determined by the first appraisal, they may obtain a second appraisal at the cost of the property owner. If a homeowner already has an appraisal which is within twelve months of the disaster or initiation of negotiations for non-disaster grants, they may submit it as a second appraisal. The second appraisal must be conducted under all of the same guidelines as the first appraisal. In cases where a review appraisal is done, if the review appraiser finds the Appraisal Report acceptable, a written report shall be given on the fair market value of the property. The second appraisal must be completed by a North Carolina licensed appraiser, must depict relevant comparables and must be on a "standard form" for residential and narrative form for commercial appraisals. Once the initial appraiser and the review appraiser have prepared and submitted the Appraisal Report and Second Appraisal to the Sub-grantee, the Sub-grantee MUST review both reports promptly. If the second appraisal is within 15% of the original appraisal, use the higher appraisal as the fair market value. If the difference is greater than 15%, a third appraisal, paid using hazard mitigation funds will be conducted. The homeowner has two weeks to accept or decline the second appraisal. The final fair market value in these cases will be the average of the three appraisals.

e. **Establish Just Compensation**

Following review of the appraisal, the Sub-grantee must establish just compensation. Just compensation is usually the same as the review appraiser's recommended fair market value. However it can never be less than the review appraiser's recommended fair market value. The Sub-grantee may determine just compensation to be in excess of the fair market value and pay that amount to the property owner. Hazard mitigation will pay only fair market value, but additional compensation may be available from other sources such as Community Development Block Grant funds.

The Sub-grantee MUST prepare a written Statement of the Basis for the Determination of Just Compensation to be sent to the property owner with the Written Offer to Purchase. This statement must include:

- a. A legal description of and location identification of the property;
- b. Interest to be acquired (e.g., fee simple, easement, etc.);
- c. An inventory identifying the building structures, fixtures, etc., which are considered to be a part of the real property;

- d. In the case of tenant-owned improvements, the amount determined to be just compensation for the improvement and the basis, as set forth in the review appraisal; and
- e. Any Purchase Option Agreement.

f. **Provide Written Offer To Purchase**

As soon as feasible after establishing just compensation, the Sub-grantee issues to the owner a Written Offer to Purchase along with the written Statement of the Basis of the Determination of Just Compensation. This offer must be sent by certified or registered mail, return receipt requested or hand delivered and receipt documented. In addition to the amount of just compensation, the offer must specify the date on which negotiation for the sale of the property will begin, which may or may not be the same date as the written offer. If the property is tenant or owner-occupied, the Sub-grantee must issue either a written Notice of Relocation Eligibility, or in the case of a tenant (not an owner-occupied) a Notice of Right to Continue in Occupancy, within thirty (30) days of the date specified for the initiation of negotiation.

g. **Negotiate Purchase**

Once the Sub-grantee has submitted the Written Offer of Purchase to the property owner, the Sub-grantee then negotiates the purchase of the property. The owner must be provided an opportunity to discuss the offer, propose a higher value and document the higher value. The owner can consider the offer and either accept it, obtain a new appraisal, or decide not to participate in the buyout. Condemnation of property is not allowed in any hazard mitigation grant programs.

h. **Closing**

Following successful negotiations, a Deed of Transfer or Contract of Sale must be prepared and executed, including the transfer of documents, prior to or at the time of closing. The Sub-grantee must reimburse the owner to the extent it deems "fair and reasonable" for incidental costs associated with transfer of title including, but not limited to recording fees, transfer taxes, penalty cost or other charges for prepayment of any preexisting recorded mortgages.

At the conclusion of settlement, the Sub-grantee must provide the owner with a Statement of Settlement Costs which identifies all settlement costs regardless of whether they are paid at, before, or after closing, and must clearly separate charges paid by the owner. This information is presented on the HUD1 form. The Statement of Settlement Costs must be dated and certified as true and correct by the closing attorney or other person handling the transaction. A receipt for purchase price must be secured by the Sub-grantee.

D. LAND VALUE ONLY

If the buyout participant has received flood insurance which exceeds the appraised amount of the structure, the jurisdiction may offer the participant the land value which is identified on the appraisal. No Duplication of Benefits are deducted from the land value. The jurisdiction should consider this option if leaving the property would prevent the jurisdiction from acquiring contiguous land. By accepting the land value in the above situation, the structure may be included in the demolition with other acquired property, thereby saving the property owner the cost of removing a substantially damaged structure.

E. ACQUISITION AGREEMENT

The Acquisition Agreement (see “Sample Forms”) is the document which clarifies whether or not the property owner is going to accept the buyout offer. The acquisition agreement provided in this document should not need any modifications other than information specific to the jurisdiction and the buyout participant.

F. DEED RESTRICTIONS

The deed to the property acquired will carry a restriction that the property be maintained as open space in perpetuity and that no future federal disaster assistance be made available for that property. Recorded deed restrictions are a requirement. Each file will be checked to ensure the restrictions are recorded properly.

The requirement to maintain these properties as open space is one of the cornerstones of the Hazard Mitigation Grant Program. To prevent future development of this land, it is essential to have the open space restrictions specifically stated in the deed. An ordinance restricting the development will not suffice.

The sample deed restriction lists the following conditions and restrictions:

Pursuant to the Interim Rule set forth as 44CFR Part 209.10 (c) by FEMA at Volume 65, No. 29 of the Federal Register, the following restrictive covenants must be conveyed in the deed to any property acquired, accepted, or from which structures are removed:

1. The property must be dedicated and maintained in perpetuity for uses compatible with open space, recreational, or wetlands management practices; and

2. No new structure(s) will be built on the property except for the following:
 - (i) A public facility that is open on all sides and functionally related to a designated open space or recreational use; or
 - (ii) A public rest room; or
 - (iii) A structure that is compatible with open space, recreational, or wetlands management usage and proper floodplain management policies and practices, which the FEMA Director approves in writing before the construction of the structure begins.
3. After completing the project, no application for additional disaster assistance will be made for any purpose with respect to the property to any Federal entity or source, and no Federal entity or source will provide such assistance.
4. Any structures built on the property must be located to minimize the potential for flood damage, be flood-proofed, or be elevated to the Base Flood Elevation plus one foot of freeboard.
5. Every two years on October 1st, the RECIPIENT/SUBGRANTEE will report to the AGENCY/GRANTEE certifying that the property continues to be maintained consistent with the provisions of this Agreement.
6. Allowable open space, recreational, and wetland management uses include parks for outdoor recreational activities, nature reserves, cultivation, grazing, camping (except where adequate warning time is not available to allow evacuation), temporary storage in the open of wheeled vehicles which are easily movable (except mobile homes), unimproved, permeable parking lots, and buffer zones. Allowable uses generally do not include walled buildings, flood reduction levees, or other uses that obstruct the natural and beneficial functions of the floodplain.

Please refer to the NCDDEM pamphlet, *Getting to Open Space Alternatives to Demolition and Options for Land Use*, for further information.

G. SPECIAL CASES

The Sub-grantee must pay attention to acquisition rules which apply in each special case.

1. Not to Acquire

If the Sub-grantee decides not to acquire the property at any time after the Preliminary Acquisition Notice has been sent to the property owner, the Sub-grantee must notify the owner and all tenants in residence in writing of its intention not to acquire property and that any person moving from the property thereafter will not be eligible for relocation payments and

assistance. This notice must be sent within ten (10) days of the Sub-grantee's determination not to acquire. (See "steps in the Acquisition Process," number 1 subsection b). If the property owner at any time decides not to participate in the acquisition program they should sign a non-participation form and the jurisdiction should keep it on file.

2. Donations

In the case of easements, the preliminary acquisition notice may also include language advising the property owner that they may voluntarily waive their right to an appraisal and compensation and donate the easement to the Sub-grantee. The Housing & Urban Development (HUD) brochure "When a Public Agency Acquires Your Property" is enclosed. (see "Sample Forms" tab).

The property owner may respond in writing to waive all rights to appraisals and just compensation, and to donate the property. A formal Donation and Waiver Statement (see "Sample Forms" tab) should be executed.

If the property owner requests the locality to secure an appraisal and review appraisal, the Sub-grantee must secure an independent appraisal and a review appraisal from licensed real estate appraisers, and document these steps in a written report. The Sub-grantee must then prepare a Statement of the Basis for the Determination of Just Compensation (See "Sample Form" tab). The Sub-grantee can then prepare a Waiver of Just Compensation that clearly states the amount established as just compensation and that the owner-occupant understands that he/she cannot be required to donate the property, or sell it, to the Sub-grantee at less than the amount determined to be just compensation and that he/she voluntarily agrees to do so.

If donations are being made by elderly, very poor, functionally illiterate, or non-English speaking persons, the Sub-grantee should take special care to document the efforts made to insure the owner-occupant understood his/her rights in order to demonstrate the owner was not persuaded or coerced. This is especially true if there are any questions about the level of understanding of the process by the individual(s) involved in the project.

H. RECORDKEEPING

The Sub-grantee shall maintain a separate acquisition file for each real property acquisition for at least three years after completion of the project, final settlement of the acquisition, or the disposition of the applicable relocation records, whichever is later.

All projects require monthly progress reports to document progress, problems encountered, and/or delays. Requests for extensions MUST be made in writing to NCDEM at least 60 days before the end of the Grant Agreement period.

Since all projects are approved with a budget based on a number of assumptions and estimations, a running total must be kept so that all unanticipated under runs and overruns can be reported on monthly progress reports. If a property has been approved using a Benefit–Cost Analysis (BCA), overruns may affect its cost-effectiveness. The BCA may need to be re-evaluated before proceeding with the purchase.

The following documents must accompany requests for the payment of the first property acquisitions:

- Signed HUD1 Settlement Statement
- Acquisition Agreement
- Full Appraisal
- Full Survey
- Warranty Deed with restrictions
- Title Opinion

If more than one appraiser or surveyor is hired, the first full appraisal and survey completed by each appraiser and surveyor must be submitted to the project manager. Copies of the signed HUD1 settlement statement and a summary appraisal must accompany requests for payment for subsequent acquisitions.

At NCDEM's discretion advance payments may be considered under special circumstances. In the event that an unsigned HUD1 settlement statement should be submitted along with the appraisal, a signed HUD1 settlement statement must be submitted to NCDEM immediately after the acquisition takes place.

I. MOBILE HOME AQUISITION

There are three acceptable methods for appraising mobile homes that are classified as personal property and not real property. Communities can hire licensed appraisers who can appraise personal property or licensed appraisers who can use the Kelley Blue Book or Marshal & Swift to determine pre-disaster fair market value.

Mobile homes that serve as primary residences can be included in an acquisition project and must meet the same eligibility criteria as other residential structures. If the mobile home owner does not own the land upon which his/her mobile home is situated, hazard mitigation funds cannot be used to acquire the mobile home unless the landowner agrees to sell the land. The following scenarios provide additional guidance:

- Properties that are part of a proposed buyout and demolished prior to grant approval are still eligible for acquisition.
- There could be as many as three parties involved in the acquisition of a property with a mobile home: the landowner, mobile home owner, and tenant.
- Under 49 CFR Part 24, in the event of a natural disaster the occupancy requirement for applicant eligibility is determined from the date of the event, as opposed to the period immediately preceding the initiation of negotiations for the real property. In particular, 49 CFR Sec. 24.403(d)(1) states that “[n]o person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for the a reason beyond his or her control,” including, in pertinent part, a disaster. In addition, moving costs are available if the mobile home is movable and the owner wishes to move their existing home to a new site rather than sell it. The reasonable costs include expenses for disassembling, moving, and reassembling any attached appurtenances (see URA section). However, if the mobile home suffered flood damages, the structure may not be suitable for habitation.

There may be situations where titles to mobile homes are no longer accessible and have been “junked”. In such cases, court documentation declaring ownership or a certified letter from DMV showing clear ownership as well as showing the mobile home is free and clear of all liens can be accepted in lieu of a title on a case by case basis.

Mobile homes are classified as “motor vehicles” for purposes of the North Carolina statutes. See In re Wester, 229 B.R. 348, 350 (Bankr. E.D.N.C.19998). A motor vehicle will be deemed abandoned when that vehicle “has remained illegally on private or public property for a period of ten (10) days without the consent of the owner or person in control of the property.” N.C.G.S. §20-137.7(1). Abandoned vehicles may legally be removed, provided the removal is not objected to by the owner of the private property, provided the requisite statutory notice is given the vehicle owner. N.C.G.S. §20-137.9. Specifically, N.C.G.S. §20-137.10 requires that “[w]hen any vehicle is derelict or abandoned in this State, the Secretary [of North Carolina Department of Transportation] shall cause a tag to be placed on the vehicle which shall be noticed to the owner... the same is considered to have been derelict or abandoned and is subject to forfeiture to the State.” N.C.G.S. §20-137.10(a). Due Diligence to locate mobile home owners is required.

Chapter 7

DEMOLITION

A. GENERAL

Under certain circumstances, demolition costs for structures acquired with mitigation funds may be covered by the Public Assistance (PA) program. In general, these structures must have been damaged by a declared event to the point that they represent a hazard to life, safety or health. PA demolition standards are different from mitigation program standards in that PA programs only require removal of a structure to the level of the footing and do not require removal of footers, sidewalks, driveways and other features deemed necessary for completion of mitigation projects. Mitigation Staff will confer with NCEM's Public Assistance Section to see if a cost savings may be recognized in the mitigation program by partnering with PA.

The following requirements apply to all demolition associated with mitigation projects.

B. CONTRACT DOCUMENTS

Once the properties have been acquired and the jurisdiction is ready to proceed with a demolition project, contract documents must be developed specifying the work to be completed under the demolition project. Typically, these contract documents should include the following items:

Advertisement for Bids - The advertisement for bids is usually a short paragraph placed in a newspaper of general circulation (one that is distributed locally or regionally) or trade journal that alerts prospective bidders that contract documents are available for examination; explains where to obtain the contract documents, and provides a brief description of the project.

Invitation to Bid - This is a formal invitation to bid rather than a general announcement and is usually bound into the project manual as part of the contract documents. The invitation is more explicit than the Advertisement for Bids and includes a description of the proposed work, any special requirements, and most important, the date, time and location the bids will be received.

Description of the Project - This is a complete description of the project and expands on the descriptions included in the Advertisement for Bids and Invitation to Bid. For demolition, this should include a complete description of each property, and a description of demolition and debris disposal standards.

Pre-Bid Qualifications statement - This document asks pertinent and personal questions of prospective bidders. Usually there are five major areas of inquiry: organization of the contractor, financial condition, past experience, equipment and labor force available and

work in progress. Together, this information provides a comprehensive picture of the qualifications of proposed bidders.

General Conditions - This document is usually a previously-developed document that is included in the project manual which defines and/or details such items as the contract documents, architect/engineer, owner, contractor, subcontractor, time limits for payments and completion of work, protection of persons and property insurance requirements, changes in the work, uncovering and correction of work, and termination of the contract. Most architects will use the *American Institute of Architects (AIA) Document A201*. Most engineers will use a similar document developed by the Consulting Engineers Council. The General Conditions are as implied, conditions which apply in general to the project.

Supplementary Conditions - The General Conditions, as discussed above, do not always clearly define the requirements of the project. For this reason most projects have supplements to the printed General Conditions. These Supplements can eliminate, alter, or add portions to the General Conditions to meet project requirements.

Special Conditions - Whereas Supplementary Conditions are actually variations of the General Conditions, Special Conditions are concerned with the project. Examples of Special Conditions include requirements for barricades, dust palliation, use of utilities, noise suppression, fire protection, use of elevators, toilets or existing parking, and burning waste if allowed. Not all projects need Special Conditions, but there should be a clear-cut separation between conditions that might apply to any project and the special requirements for a particular project.

Instruction to Bidders - This document details the bidding requirements that are placed upon bidders and instructs bidders on how to complete the necessary documents for an acceptable bid.

Technical Specifications - These specifications detail the technical requirements of the project work. The following sections may be included for demolition work: the demolition of existing structures, compaction control and testing, and completion of grading and lawns. The following minimum provisions are to be included as part of the technical specifications:

- All demolition debris (hazard and non-hazardous) shall be removed and taken to an approved landfill. All residential improvements acquired under the HMGP, including but not limited to houses, garages, driveways, sidewalks and above-grade concrete slabs shall be removed. It should be noted that costs to remove streets, roads or sidewalks in the public right-of-way are not eligible for reimbursement under the Public Assistance Program.
- All septic tanks that are not removed shall be emptied, have the floors and walls cracked or crumbled so the tank will not hold water, and be filled with sand or other clean fill.

- All foundation and basement walls shall be removed to at least one (1) foot below the finish grade of the site.
- All basements shall be filled with compacted clean fill. Prior to filing, basement floors should be provided with a minimum one foot diameter hole in the floor to allow for drainage. The jurisdiction's demolition inspector should verify that the hole has been placed in the basement floor before it is filled in.
- Only trees which restrict the demolition work on any structure may be removed as part of the demolition project. Any additional tree removal will be done at the jurisdiction's expense.
- All abandoned utilities shall be terminated at least two (2) feet below the finish grade of the site.
- Removal of underground fuel storage tanks and adjacent contaminated materials is not eligible for Public Assistance reimbursement. Such tanks should be removed and disposed of in accordance with local, state, and federal regulations.
- All demolition sites shall be graded and leveled. Clean fill should be added to provide a minimum 12 inch layer of soil capable of encouraging vegetation. The contractor should provide grass seed and straw to the entire soil surface unless the site is to be used for agricultural purposes.

There are several forms that should be included in the contract documents. These forms are:

- Bid Form
- Bid Guarantee Form
- List of Subcontractors Form
- Agreement
- Performance Bond Form
- Payment Bond Form
- Notice of Award Form
- Notice to Proceed Form
- Application for Payment Form
- Lien Waiver Form
- Change Order Form
- Certificate of Substantial Completion
- Hold Harmless Agreement

The contract documents should include the following minimum bonding requirements:

1. *A bid guarantee from each bidder equivalent to five percent of the bid price.* This bid guarantee shall consist of a firm commitment such as a bid bond, certified check or other negotiable instrument accompanying the bid as assurance that the bidder will, upon acceptance of his or her bid, execute such contractual documents as may be required within the time specified.

2. *A performance bond on the part of the contractor for 100 percent of the contract price.* A performance bond is to be executed in connection with a contract to secure the fulfillment of all the contractor's obligations under the contract.

Other Uses of Structures to be Demolished

The jurisdiction may allow various police and fire organizations to use acquired structures for training purposes prior to their demolition. In some cases, police organizations may ask jurisdictions for permission to use structures for hostage situation training or other purposes. Similarly, fire departments may ask to use acquired structures for controlled fires to practice their procedures. In both cases, the jurisdiction must realize that they may be liable for damages or injuries which could occur as a result of these organizations using the structures and should take the appropriate measures to protect themselves from this liability. In addition, any such actions must be considered in terms of possible non-compliance with existing local, state and federal environmental ordinances, laws, and regulations.

C. DEMOLITION MINIMUM SPECIFICATIONS

1. General

The Contractor shall provide all labor, equipment, machines and tools necessary to perform demolition and debris removal of structures at the work sites identified on the Bid Form. The work sites will be identified by street address of the primary structure located at the site, and each site will be additionally identified by the Tax Identification Number of the property. All utility services must be shut down by appropriate parties.

The Contractor shall verify the service has been shut down prior to accomplishing the physical disconnections and any capping or terminations necessary to proceed with demolition. The local/state government will present the Contractor with the condemnation notice and/or permit for demolition and right-of-entry for each structure.

The Contractor shall comply with the directions of the local/state government representative having jurisdiction over the work, such as, but not limited to, the hours of work and the abandonment of utilities. The pricing submitted for the subject work shall be all-inclusive. The cost submitted will include the removal of all debris generated by the demolition and removal of any debris which is deemed necessary to complete the demolition.

2. Mobilization

The Contractor shall be capable of mobilizing his equipment and crews within seven days of the receipt of Notice to Proceed. The Contractor shall work expeditiously to obtain permits and proceed with the work.

3. Scope of Work

Demolition will include the cost of “Final Disposal” of debris in a manner that complies with all local, state and federal codes. Structures with basements will have their walls pushed in and backfilled with clean, unclassified fill material. Concrete pads, slabs or driveways will be removed and may be disposed of on site if buried below grade with a 3 foot minimum of cover. Erosion due to flood waters will be filled and/or graded to blend in with the contours of surrounding areas.

In addition to the general requirements, the following conditions shall also be required:

- a. The Contractor is responsible for demolishing the specific structures and removing the resulting debris, as well as any associated outbuildings specified by the local/state representative.
- b. All demolition debris shall become the property of the Contractor. It shall be the Contractor’s responsibility to remove from the site and properly dispose of all material in accordance with federal, state and local ordinances.
- c. The Contractor shall coordinate the clearing of all property with the local/state representative.
- d. Inoperable automobiles, trucks, boats and trailers shall be removed from the site by acceptable and approved towing methods. Unless notified otherwise, these items shall become the property of the Contractor.
- e. All relevant street side appurtenances including fire hydrants, fencing and street signs shall be left undamaged during demolition and debris removal. Damaged, disconnected and/or out-of-place street side appurtenances, such as fire hydrants, manhole covers and street signs shall not be collected, unless otherwise directed by the local/state representative. Locations of previously-damaged appurtenances shall be reported to the local/state representative.
- g. Propane cylinders may be located in debris. If found, propane cylinders shall be stored on-site and the appropriate local/state representative shall be notified. Propane cylinder disposal measures should be undertaken at the discretion of the local/state representative.
- h. The Contractor can use tracked or rubber-tired equipment in the performance of this contract. The Contractor is directed to coordinate with the local/state representative in identifying and resolving liability for damage. The Contractor shall make repairs to property damaged by negligence of the Contractor. Damages caused by the fault or negligence of the Contractor will not be reimbursable under this contract. The Contractor shall preserve and protect all existing structures which have not been designated for demolition. The Contractor shall preserve and protect vegetation such as trees, shrubs and grass on or adjacent to the area of work.

i. The Contractor is responsible for collecting and transporting debris. All truck hauling must comply with State Department of Transportation Regulations. After being loaded in the work area, trucks shall have their loads trimmed so that no debris extends horizontally beyond the bed in any direction. All trucks utilized in hauling debris shall be provided with a means to effectively contain the debris on the vehicle while hauling.

j. Any material which is found to be classed as hazardous or toxic waste shall be reported immediately to the local/state representative. At the local/state representative's direction, this material shall be segregated from the remaining debris in such a fashion as to allow remaining debris to be loaded and transported.

k. The Contractor is to notify the local/state representative immediately of any situation which causes a health or safety risk to workers on site. The hazardous or toxic waste must be disposed of in accordance with federal, state, and local ordinances.

l. The use of burning at the project site for the disposal of refuse and debris will not be permitted unless for fire fighter training. The use of explosives will not be permitted.

m. The Contractor must comply with all state and/or federal laws, regulations, policies and guidelines and take all necessary precautions to identify and protect threatened or endangered species and wetland habitats throughout the duration of the project.

n. The Contractor shall verify whether or not underground storage tanks are present at the project site. If underground tanks are found to be present, the Contractor must notify the local/state representative prior to any attempt to remove the tanks.

o. Any fill material required from a borrow site must be obtained from a borrow site which has been pre-approved in writing by the state/local government.

p. Rough grading of the site by the Contractor is included. Preparation of subsoil, placing of topsoil, seeding, mulching and fertilizer are not a part of this demolition contract.

r. Prior to demolition, each acquisition property will be inspected to determine the possible presence of asbestos, and other toxic and/or hazardous substances. The inspection will be conducted in compliance with all federal and state environmental laws and regulations.

Should asbestos or other toxic and/or hazardous substances be found during inspection, the building demolition and site clean-up will be conducted in such a way as to be in compliance with all federal and state environmental laws and regulations.

Chapter 8

ELEVATION SOP

Hazard Mitigation Grant Program (HMGP) Eligibility

Property owners must meet the following criteria to be eligible for HMGP elevation funds for their home:

1. Elevation as a mitigation measure must be demonstrated to be a cost effective option. Procurement of the information required for benefit-cost analysis (elevation certificates, tax cards, FIRM maps, etc.) will be the responsibility of the local government or homeowner.
2. Structures to be elevated must be primary residences.
3. The elevation grant participant must be the owner of the structure to be elevated. Should the owner of the house at the time of the declared event sell the structure, the structure is still eligible for elevation. However, the structure must be the new owner's primary residence.
4. Rental properties are eligible for elevation, but primary consideration for funding will be given to structures that are the owner's primary residence.
5. If a structure to be elevated is insured through the National Flood Insurance Program (NFIP) and deemed by the local authority to have been substantially damaged, the owner must seek Increased Cost of Compliance (ICC) reimbursement through the NFIP. Any ICC premiums received by owner must be utilized to offset cost of elevation project and to avoid duplication of benefits.

Flood Mitigation Assistance (FMA) Eligibility

FMA elevation eligibility will follow HMGP guidance with the following additions and/or exceptions:

1. The structure must meet current FMA repetitive loss eligibility requirements as determined by the Federal Emergency Management Agency (FEMA).
2. Secondary residences may be elevated under the FMA program provided the structure meets all other FMA program requirements. (Provided other structures are not presented that meet all eligibility requirements and fall into a higher funding priority as established by NCDDEM).
3. If the local government is not participating in project, the property owner must provide all application materials and documents necessary to determine the cost-effectiveness of project.

4. Owners of properties approved for funding by FEMA shall procure service contracts through an informal bid process only in the event that local government is not handling the application. Bid tabulations must be presented to NCDDEM prior to entering into contract.

Elevation Design

1. The proposed method of elevation must be the lowest cost alternative (e.g., elevate on fill, elevate on wood pilings, elevate on continuous block foundation, etc.)

Should the State Historic Preservation Office (SHPO) determine that the proposed elevation is subject to the provisions of the National Historic Preservation Act, SHPO will provide guidance concerning aesthetics, design and historic treatment measures.

2. Only those portions of structure directly affected by scope of elevation work will be required to be brought into compliance with the North Carolina Residential Building Code (NCRBC). Repairs or reconnection of substandard utilities to sheds or other outbuildings are not eligible under the HMGP. Garages that are separated from the main structure are also not eligible. All costs of repairs or bringing these to code must be funded by sources other than HMGP.
3. The elevated structure must comply with the locally adopted floodplain ordinances. Local government is responsible for ensuring the structure is compliant with the National Flood Insurance Program (NFIP). The floodplain ordinance requirements include but are not limited to:

A. Local Floodplain Development Permit

- All elevations are considered “development in the floodplain” and require a local permit prior to any onsite construction.
- Failure to obtain a local permit may result in a violation against the local floodplain ordinance and the NFIP (National Flood Insurance Program).

B. Permanent Openings in Foundation Walls

- There is a minimum of two openings that can be placed in the enclosed walls.
- The two openings must be on different walls.
- The total net area of openings must not be less than one square inch for every square foot of enclosed area.
- The bottom of all openings must be no higher than one foot above the adjacent grade.
- Openings must be equipped with louvers, screens, valves, grates, or other devices that permit the entry and exit of floodwater without human intervention.

C. Flood Resistant Materials

- All materials used at or below the flood protection elevation (which is a local determination) must be resistant to flood damage.
- The only electricity allowable at or below the flood protection elevation is the minimum necessary to meet local/state codes. These electrical items must be exterior waterproof grade.
- Areas at or below flood protection elevation are to be used solely for the parking of vehicles, building access, or temporary storage.

Eligible Expenses

Grant funds will be made to the local jurisdiction or homeowner on a reimbursement basis. Documentation is required for all costs incurred. Elevation funds can be used to reimburse the following activities:

1. Elevating the structure's lowest floor or lowest mechanical equipment, at a minimum, to one foot above the base flood elevation, or to the elevation established in local floodplain ordinance, whichever is higher.
2. HMGP elevation funds may not be used to repair, rehabilitate, or add to the habitable portion of the home. However, the addition of a small utility room is eligible up to 100 square feet if the room is necessary due to loss of a basement that housed utilities.
3. HMGP eligible expenses may include necessary improvements such as a handicapped accessible entrance. A physician must document the need for a handicapped accessible entrance.
4. Temporary housing funds may be available to cover some expenses incurred during the actual raising of the home. Temporary housing, if available, will be decided on a case-by-case basis. However some general restrictions will apply. These restrictions are:
 - Funding will be reimbursed to the property owner or tenant based upon valid, paid receipts for reasonable housing expenses.
 - Funding will be for the actual time spent under construction (the time when actual elevation work begins or when a Certificate of Occupancy or Certificate of Completion is issued) for a comparable local unit. Funding will not exceed local costs.
 - Funding will not pay for food, transportation or utilities while relocated during the elevation process.

- Funding will not pay for storage of home furnishings while elevation takes place.
- The jurisdiction must include paid receipts to be reimbursed. It is the responsibility of the subgrantee to delineate temporary housing expense costs and include them in the application prior to submittal to FEMA for final review. NCDEM will assist the subgrantee, if necessary, to determine temporary housing costs.
- NCDEM strongly recommends a one-time, lump-sum reimbursement of temporary housing expenses instead of monthly payment.

Elevation Project Parameters

1. Only the costs of elevation and foundation retrofitting are eligible for reimbursement. No funds will be provided to restore, replace or repair the structure. No additions to the habitable spaces of the structure will be eligible for reimbursement.
2. An HMGP elevation project can be changed to an acquisition project only upon approval of NCDEM's Mitigation Section Chief and FEMA. A written request must be made to NCDEM and approved by the Mitigation Chief and FEMA before any action is undertaken. Upon approval, any incurred elevation expenses will be deducted from the offer to the homeowner.
3. When submitting cost reports to NCDEM for reimbursement, expenditures incurred will be submitted on a line item basis. Only the cost report forms mailed to the subgrantee and/or homeowner from the Department of Crime Control and Safety or NCDEM shall be used.
4. To receive a final reimbursement for an elevated structure, the subgrantee and/or homeowner must present a final Elevation Certificate and a Certificate of Occupancy. In cases where local governments do not issue a Certificate of Occupancy, the subgrantee must provide an inspections report indicating that items related to the scope of work are satisfactorily completed.
5. In projects where the non-Federal share is provided by the homeowner and/or local government, the non-Federal share shall be expended and reimbursed before the Federal share.
6. Donated labor and/or materials, owner's labor or non-profit organization donations of labor and materials are not eligible for reimbursement. NCDEM must approve the utilization of donated labor and/or materials. The owner must sign an agreement stating that donated labor and/or materials will be used prior to the commencement of work.

7. Owners of properties included in the elevation program are required to carry flood insurance *in perpetuity* on the elevated structure, and a statement of voluntary participation must be signed and enclosed in the project file. The owner must modify the deed of trust for the property to add language that requires the current and all future owners of the property to maintain a flood insurance policy that provides coverage that is at least equal to the cost of elevation. NCDEM will consider alternative methods of maintaining flood insurance on an elevated structure, but the method must be approved in advance.

Elevation Related Policy

1. Elevation projects must be cost effective, as determined by FEMA and NCDEM.
2. All structures to be elevated must be inspected prior to elevation to assess the structure's ability to undergo elevation. The inspector is to be procured by the jurisdiction through a competitive bid process. The cost of this technical feasibility determination is an eligible cost under HMGP.
3. Foundation repair is an eligible cost only if necessary for the safe elevation of the structure. Accordingly, repairs to building support systems (sills, girders, beams, etc.) are eligible for reimbursement only if replacement is required because existing members are undersized to meet the specifications of the new foundation design.
4. In cases where the existing floor systems, decks, or other structural members have been inadequately designed/constructed or are deteriorated, the property owner or a non-HMGP source will bear the cost of rehabilitation.
5. The owner can pay at his or her own expense the difference to elevate the home higher than the elevation height determined by the local government. Should a homeowner wish to pursue this option, the design must be approved in advance by NCDEM and the subgrantee.
6. During an elevation project, NCDEM strongly advises against any concurrent additional work done at the homeowner's expense. Work performed at the homeowner's expense should be scheduled after the HMGP elevation work is complete or in such a manner as not to delay the HMGP work underway. Accordingly, NCDEM and the subgrantee must approve additional work beyond the scope of work in the form of a change order.
7. The costs of any aesthetic improvements (stucco, siding, brick veneer, etc.) or structural improvements beyond the scope of work established by NCDEM and/or the subgrantee will be borne by the homeowner or another funding source other than HMGP. However, elevation and retrofitting work done as part of a historic treatment measure as outlined by the State Historic Preservation Office (SHPO) is an eligible expense.

8. *Change orders related to the elevation scope of work must be approved in advance by NCDEM.* Change orders not related to the scope of work, i.e. those requested by a homeowner, will not be considered since they are ineligible for reimbursement.
9. Standard HMGP access steps and landings are eligible HMGP reimbursements. If the homeowner requests any deviation from the standard HMGP design, he/she must sign a subcontract stating that no access will be built using existing HMGP funds; instead the homeowner will provide access of his/her own design at no cost to the program.
10. The construction of existing new decks or making improvements to existing decks, porches, and carports is not eligible under HMGP. The elevation of existing decks, porches, and carports must be cost effective and approved by NCDEM in the original Scope of Work.
11. No homeowner requests for improvements will be allowed. Any homeowner funded improvement work must be performed after all HMGP work is completed.
12. The decision as to whether raise, replace, or remove a chimney(s) during elevation shall be based on structural integrity and cost effectiveness. For chimneys related to the sole source of heat that can not be elevated, the replacement will be handled in the most cost effective manner available.
13. Repairs and/or improvements to landscaping, sidewalks and driveways are not HMGP eligible expenses. Any damage incurred as a result of the elevation process to landscaping, sidewalks or driveways shall be the responsibility of the homeowner and/or the contractor.
14. Any structural member, addition or utilities removed as necessary to perform the elevation work and/or retrofitting work shall be handled on a case by case basis. Removals necessary to perform the elevation work must be approved by NCDEM. If necessary, replacement work should be done in a cost-effective manner according to local building code requirements.
15. The reconnection of utilities are eligible HMGP expenses, provided the connections are not outside the footprint of the house. Where existing utility lines have deteriorated or do not meet code requirements, additional costs to repair such utilities shall not be eligible for reimbursement. The cost to replace or repair any utility service components that are unsafe shall be borne by the homeowner or a funding source other than HMGP.
16. All structural components must be adequately connected and anchored to prevent flotation, collapse, or lateral movement of the building during floods.
17. The space below the lowest floor may only be used for parking of vehicles, building access, or storage. In a coastal velocity zone, the space below the lowest floor must be either free of obstruction or constructed with non-supporting

breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation.

18. The North Carolina Division of Emergency Management (NCDEM) shall have the right to examine and inspect any elevation and retrofitting work in a HMGP funded elevation project with or without the presence of the homeowner and/or the subgrantee.
 - a. Representatives of NCDEM shall be permitted to examine all subcontracts, materials, and equipment pertaining to the elevation work including all relevant data and records.
19. In the event of contractual disputes and/or disputes regarding the quality of workmanship between a homeowner, contractor and subgrantee, NCDEM will only review the programmatic eligibility of disputed items. The resolution of any disputes will be the responsibility of the homeowner, the contractor and/or the subgrantee, not the North Carolina Division of Emergency Management.
20. NCDEM strongly recommends recording the pre-construction condition of each home prior to the commencement of work using photographic/video graphic methods. Attention should be paid to windows and doors, cracks in wallboard, moldings, and ceramic tile.
21. The appeals process for any Hazard Mitigation Grant Program or Flood Mitigation Assistance elevation project shall be done in accordance with the stipulations as set forth in the 44 Code of Federal Regulations.

Chapter 9

REQUESTING HAZARD MITIGATION GRANT FUNDS (Draw Downs)

The North Carolina Department of Crime Control and Public Safety (CCPS), Division of Emergency Management is the primary grantee of the funds processed through Smartlink and will follow FEMA's regional requirements and procedures for processing and reporting the disbursement of these funds to the Sub-grantee. The State administers HMGP and will disburse funds in accordance with state and federal regulations.

A. DISBURSEMENT OF FUNDS

As with other federally funded programs, the Smartlink II system will be used by the Governor's Authorized Representative (GAR) for processing and reporting the disbursement of federal funds. Once funds are deposited, the State Hazard Mitigation Officer (SHMO) will be notified that the funds have been placed into the appropriate account for the particular applicant and project.

1. Upon receipt of a letter from FEMA stating that the funds have been electronically transferred through Smartlink II into the account of Crime Control and Public Safety, the State will notify the Sub-grantee's "contact person" in writing that their project has been approved for funding and that funds have been obligated.
2. The SHMO will submit to the Sub-grantee the State Hazard Mitigation Grant Agreement, which is to be signed by the Sub-grantee's Designated Agent and returned as soon as possible to the SHMO for execution. The Grant Agreement should be returned to the State Hazard Mitigation Officer at: 4716 Mail Service Center, Raleigh, NC 27699-4713. Once the Grant Agreement has been executed and returned to the Sub-grantee, implementation of the project can begin.

B. REQUIRED DOCUMENTATION/REPORTING

The sub-grantee will submit a Cost Report form or a Request for Advance form to the assigned Project Manager for that particular project. The Cost Report form is a request for reimbursement of funds spent by the Sub-grantee. The purpose of the Advance Report form is to request an advance payment for anticipated financial activity. Such requests must indicate what these funds will be used for, and they must contain back-up documentation that supports the need for the funds. Any advanced funds

must be held in a non-interest bearing account and must be disbursed within three business days. Any advanced funds not thus disbursed shall be promptly returned to the NC Department of Crime Control and Public Safety. Advance of funds is a privilege and not a right, and such advances will be made at the discretion of the State Hazard Mitigation Officer.

1. The Cost Report form is used for reimbursements. Documentation should be attached to a Summary Statement indicating what the request is for along with a breakdown of the monies previously spent. Documentation examples include, but are not limited to HUD Statements, invoices, cancelled checks, purchase orders, etc.
2. For the Request for Advance form, documentation should be attached indicating why the requested advance is needed, and how the advance would be spent (i.e., work to be performed, scope of that work, how many homes to be appraised, dollar amount requested, or the time framed needed for the completion of that phase of work).

C. PROCESSING THE REQUEST

The Sub-grantees will submit their Cost Report/Advance Requests directly to the Project Manager for that project as funds are needed.

1. Once the project manager has reviewed and approved the “request” for compliance and accuracy, the Project Manager will then submit the request to the Grants Management Section in the Controller’s Office at the Department of Crime Control and Public Safety.
2. The State Controller’s office will process the fund request and will submit a check to the Sub-grantees. (Usually within five business days.)
3. The Sub-grantees may also elect to receive their reimbursement as a direct deposit (E-payment). To establish this capability, the Sub-grantee must log on to <http://www.ncosc.net/vendorrepayform/VendorElectronicPaymentForm091905.doc>.



Allowable Costs Under OMB Circular A-87

The table below lists categories and examples of allowable and unallowable costs under FEMA's disaster assistance programs. The list of categories and examples that is shown in the table is not a complete list, however. For more information about allowable and unallowable administrative costs, refer to Office of Management and Budget (OMB) Circular A-87, Cost Principles For State, Local And Indian Tribal Governments. Note: These costs are allowable only to the extent that they do not exceed the limit that the program imposes.

COST CATEGORY	EXAMPLES	NOTES/RESTRICTIONS
✓ Advertising	<ul style="list-style-type: none"> ✓ Radio, television, and newspaper ads. ✓ Direct mail campaigns. 	<p>When incurred for:</p> <ul style="list-style-type: none"> ✓ Recruitment of personnel. ✓ Procurement of goods and services. <p>Advertising costs are not allowable if they are incurred solely to promote the governmental unit.</p>
✓ Public Relations	<p>Activities directed toward:</p> <ul style="list-style-type: none"> ✓ Maintaining the image of the governmental unit. ✓ Promoting understanding and favorable relations with the public. 	<p>When:</p> <ul style="list-style-type: none"> ✓ Incurred to communicate with the public and press pertaining to the specific program. ✓ Necessary to conduct general liaison with the news media and government public affairs officers to keep the public informed. <p>Public relations costs are not allowable if they are incurred solely to promote the governmental unit.</p>
✓ Alcoholic Beverages		Costs for alcoholic beverages are not allowable.
✓ Audit Services	<ul style="list-style-type: none"> ✓ Case or project reviews. ✓ Project inspections. 	<p>Provided that the audits:</p> <ul style="list-style-type: none"> ✓ Comply with the provisions of the Single Audit Act (see OMB Circular A-133). <p>OR</p> <ul style="list-style-type: none"> ✓ Have otherwise been required and/or approved by FEMA.
✓ Bad Debts	✓ Uncollectible funds.	Losses arising from uncollectible amounts and other claims, and related costs, are not allowable.

I. Documents Governing the HMGP AND FMAP



Allowable Costs Under OMB Circular A-87 (Continued)

COST CATEGORY	EXAMPLES	NOTES/RESTRICTIONS
✓ Bonding Costs	Costs associated with attaining surety bonds for employees and officials.	Provided that bonding is in accordance with sound business practice.
✓ Budgeting	Budget: <ul style="list-style-type: none"> ✓ Development. ✓ Preparation. ✓ Presentation. ✓ Execution. 	Allowable.
✓ Communications	<ul style="list-style-type: none"> ✓ Telephone. ✓ Mail and messenger service. 	Allowable.
✓ Compensation for Personnel	<ul style="list-style-type: none"> ✓ Wages and salaries. ✓ Fringe benefits. 	Provided that compensation is reasonable for the services provided.
✓ Donated Services	Volunteered time by: <ul style="list-style-type: none"> ✓ Technical personnel. ✓ Consultants. ✓ Skilled and unskilled labor. 	<ul style="list-style-type: none"> ✓ The value of donated services is not allowable either as a direct or indirect cost. ✓ The value of donated services may be used to meet cost-sharing or matching requirements.
✓ Legal Expenses	<ul style="list-style-type: none"> ✓ Professional and/or support staff time. ✓ Filing fees. 	<ul style="list-style-type: none"> ✓ Legal expenses required for program administration are allowable. ✓ Legal expenses for prosecution of claims against the Federal Government are not allowable.
✓ Disbursing Services	Costs associated with the accounts payable function.	Allowable.
✓ Equipment and Other Capital Expenditures	<ul style="list-style-type: none"> ✓ The net invoice price of equipment, including modifications, attachments, or accessories. ✓ Ancillary charges, including taxes and freight. 	<p>For nonexpendable items of equipment having:</p> <ul style="list-style-type: none"> ✓ A useful life of more than 1 year. ✓ An acquisition cost of \$5,000 or more. <p>Items of equipment with an acquisition cost of less than \$5,000 are considered supplies.</p>

I. Documents Governing the HMGP and FMAP



**Allowable Costs Under OMB Circular A-87
(Continued)**

COST CATEGORY	EXAMPLES	NOTES/RESTRICTIONS
✓ General Government Expenses	<ul style="list-style-type: none"> ✓ Salaries and expenses of the Office of the Governor and/or State legislatures, tribal councils, or other local governmental bodies. ✓ Costs associated with government services normally provided to the general public (e.g., fire and police). 	Normally not allowable.
✓ Maintenance, Operation, and Repairs	<ul style="list-style-type: none"> ✓ Utilities. ✓ Insurance. ✓ Security. ✓ Janitorial services. ✓ Equipment repairs. 	Allowable if they: <ul style="list-style-type: none"> ✓ Keep property in efficient operating condition. ✓ Do not add to the permanent value of property. ✓ Are not included in rental charges for space.
✓ Materials and Supplies	<ul style="list-style-type: none"> ✓ Stationery. ✓ General office supplies. ✓ Equipment with an acquisition cost of less than \$5,000. 	Allowable after deducting: <ul style="list-style-type: none"> ✓ Cash and/or trade discounts. ✓ Rebates. ✓ Other allowances.
✓ Motor Pools	Vehicle: <ul style="list-style-type: none"> ✓ Maintenance. ✓ Inspection. ✓ Repair services. 	Allowable if charged to the program at a mileage or fixed rate.
✓ Training	Employee training and development.	Allowable to the extent that the training is required for program operation.
✓ Travel	<ul style="list-style-type: none"> ✓ Transportation. ✓ Lodging. ✓ Subsistence. 	Provided that: <ul style="list-style-type: none"> ✓ Employees are traveling on official business. ✓ The costs do not exceed the amount normally allowed by the agency in its regular operations.